

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 29

In the Matter of:

Starbucks Corporation, Case No. 14-RC-289926

Employer,

and

Chicago & Midwest Regional  
Joint Board Workers  
United/SEIU,

Petitioner.

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Place: Brooklyn, New York (Via Zoom Videconference)

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 29

In the Matter of:

STARBUCKS CORPORATION,

Employer,

and

CHICAGO & MIDWEST REGIONAL  
JOINT BOARD WORKERS  
UNITED/SEIU,

Petitioner.

Case No. 14-RC-289926

The above-entitled matter came on for hearing, via Zoom videoconference, pursuant to notice, before **RACHEL ZWEIGHAFT**, Hearing Officer, at the National Labor Relations Board, Region 29, Two Metro Tech Center North, 5th Floor, Brooklyn, New York 11201, on **Wednesday, August 24, 2022, 11:00 a.m.**

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Alydia Claypool	322	339, 340	344	345	
Sage Quigley	348	363, 365			
Calvin Culey	372	382			

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
<b>Board:</b>		
B-5	320	320
<b>Employer:</b>		
E-1	386	394
E-2	386	394
E-3	386	394
E-4	386	394
E-5	386	394
E-21	390	394
E-23	386	394
E-24	386	394
E-25	386	394
E-26	386	394
E-32	390	394
E-33	390	394
E-35	386	394
E-36	386	394
E-37	386	394
E-38	386	394
E-39	386	394
E-59	395	Rejected

1	E-60	395	Rejected
2	E-63	116	392
3	E-64	120	392
4	E-65	125	392
5	E-66	127	392
6	E-70	236	392
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1                                    P R O C E E D I N G S

2                    HEARING OFFICER ZWEIGHAFT: We are resuming in the case of  
3 Starbucks Corporation, case number 14-RC-289926. When we  
4 adjourned last week, we had some housekeeping matters with  
5 regard to some documents. We are going to defer discussing  
6 that until later today because we do have some employee  
7 witnesses who are appearing.

8                    I do think before we get started, it's worth noting that  
9 there was this -- the -- that there was the Petitioner's  
10 special appeal regarding this testimony. The Regional Director  
11 ruled yesterday denying the special appeal. I have marked that  
12 for the parties -- the parties were all served by email  
13 yesterday with a copy of that order.

14                   I have marked that order as Board Exhibit 5, and I think  
15 it makes sense to get that into the record before we start with  
16 the testimony. I've -- I circulated that again this morning.  
17 It was the same document, but I had marked it as Board Exhibit  
18 5. And I've sent it to the court reporter. Is there any  
19 objection to Board Exhibit 5 in the record?

20                   MR. MENDELSON: No objection.

21                   MR. IGLITZIN: None from the Union.

22                   MS. SCHNEIDER: No objection.

23                   HEARING OFFICER ZWEIGHAFT: Okay. So Board Exhibit 5 is  
24 received.

25                   **(Board Exhibit Number 5 Received into Evidence)**



1 HEARING OFFICER ZWEIGHAFT: And in light of that, I'll let  
2 the Employer call their next witness.

3 MR. MENDELSON: The Employer calls Alydia Claypool.

4 HEARING OFFICER ZWEIGHAFT: Okay. So I'm going to admit  
5 her in one moment.

6 Good morning, Ms. Claypool. Can you hear me okay?

7 MS. CLAYPOOL: Yes, I can. Good morning.

8 HEARING OFFICER ZWEIGHAFT: Good morning. I'm Rachel  
9 Zweighaft. I'm the hearing officer hearing this case. The  
10 Employer has called you as a witness. I'm going to ask you at  
11 this time to raise your right hand.  
12 Whereupon,

13 **ALYDIA CLAYPOOL**

14 having been duly sworn, was called as a witness herein and was  
15 examined and testified, telephonically as follows:

16 HEARING OFFICER ZWEIGHAFT: Okay. If you have any  
17 technical issues or if you can't hear us, please let us know  
18 immediately so we can try and address those. If you don't  
19 understand a question that you're asked by any of the  
20 attorneys, please let us know that you don't understand the  
21 question and we'll ask somebody to re- -- to rephrase it.

22 I also want to just say as way of introduction, you may be  
23 asked about some conversations. I don't -- I just want to let  
24 you know I don't want testimony regarding any conversations  
25 about your sentiments about the Union. I don't want to know



1     how you voted. I don't want to know any conversations you had  
2     about -- you know, your thoughts about the Union or  
3     unionization or any of that. We're really just talking  
4     about -- we're really just asking questions about the election,  
5     okay?

6             THE WITNESS: Okay.

7             HEARING OFFICER ZWEIGHAFT: Mr. Mendelson, you can  
8     proceed.

9             MR. MENDELSON: Thank you.

10                             **DIRECT EXAMINATION**

11     Q     BY MR. MENDELSON: Good morning, Alydia.

12     A     Good morning.

13     Q     Am I correct to refer to you as Ms. Claypool?

14     A     Yes.

15     Q     Thank you. Am I correct that you are currently an  
16     employee with Starbucks?

17     A     Yes.

18     Q     And am I correct that prior to the --

19             MR. MENDELSON: Strike that. Let's -- let's do it this  
20     way.

21     Q     BY MR. MENDELSON: Do you recall when -- when the last day  
22     for ballots to be received by the NLRB was in connection with  
23     the election at the container store?

24     A     I do not.

25     Q     Okay. Do you recall the month in which they were to be

1 submitted, the last date?

2 MR. FRUMKIN: And I'll object just so long -- to the  
3 extent that it called for a legal conclusion as well.

4 HEARING OFFICER ZWEIGHAFT: All right. Well, I think it's  
5 okay. I think it -- I don't think it's a legal conclusion.

6 Go ahead. You can answer if you remember.

7 THE WITNESS: I believe this would have been early April.

8 Q BY MR. MENDELSON: Okay. Thank you. And did you come to  
9 learn that -- well, let me ask it this way. How did you  
10 understand ballots were to be cast by the employees who were  
11 eligible to vote?

12 A That we would be receiving them in the mail.

13 Q Okay. That's how you re- -- was to receive them. And  
14 then how did you understand you were to actually cast your vote  
15 with the ballots?

16 A There would have been some sort of, like, instructions  
17 attached to the ballot to correctly complete it and then send  
18 it back.

19 Q Okay. And what was your actual experience in that overall  
20 regard?

21 A I had not received my ballot, and so I was one of the  
22 employees that went in person to vote, like, the same -- like,  
23 packet and everything.

24 Q Okay. And tell me to the extent you can how you -- how  
25 that process worked for you. Again, the hearing officer said

1 don't tell us anything about your sentiment. Don't tell us  
2 anything about anyone else's sentiments for or against the  
3 Union. That's irrelevant to this. Tell me to whom, if anyone,  
4 you spoke regarding what to do since, as you say, you didn't  
5 receive a ballot in the mail.

6 MR. FRUMKIN: I'll object to the extent that that's a  
7 compound conclusions and question. It might just be helpful to  
8 break it down a bit.

9 Q BY MR. MENDELSON: Did you -- did you speak with anyone at  
10 any point in time regarding the fact that you had not received  
11 a ballot in the mail?

12 MR. FRUMKIN: Objection to the extent that it intrudes on  
13 Section 7 behavior if she spoke with the Union.

14 HEARING OFFICER ZWEIGHAFT: Overruled. She can -- she can  
15 testify about the manner in which she voted. I think we've  
16 been clear that she's not going to testify about anything else.  
17 And if -- so I'll allow it.

18 Q BY MR. MENDELSON: So -- so Ms. Claypool, I just want you  
19 to do the best you can thinking back to what happened. And in  
20 as much detail as you can, tell us to whom, if anyone, you  
21 spoke about not receiving the ballot, what should be done. I'm  
22 really just looking for you to relate the facts as they  
23 unfolded as you best can.

24 A So I had reached out to a few different partners that were  
25 asking and double-checking that partners were receiving ballots

1 in the mail. And because I was a fired partner during that  
2 time, I had assumed that it could have just been because I was  
3 no longer considered an employee with Starbucks. But I talked  
4 to another member on our organizing committee who I believe [REDACTED]  
5 was the one that reached out to the NLRB office to figure out  
6 what we should do for partners that weren't receiving ballots  
7 in the mail. And [REDACTED] gave me a number to call to set up an  
8 appointment to go vote in person. And that's what I did.

9 Q Okay. And just so the hearing officer has some  
10 understanding of something to refer to, there came a time when  
11 you had been discharged from Starbucks, correct?

12 A Yes.

13 Q And tell -- tell the hearing officer briefly just what  
14 happened. And I think you testified at the outset in response  
15 to my question, you're currently employed. So just tell us  
16 briefly without going too far into it just what happened.

17 MR. FRUMKIN: Objection to relevance. Refer- --

18 HEARING OFFICER ZWEIGHAFT: I mean, yeah. I don't want to  
19 get into any -- I don't want to get into any break. I just  
20 want to -- I just want to know about the voting itself.

21 MR. MENDELSON: Okay. Yep. Fair enough. Withdrawn.

22 Q BY MR. MENDELSON: So who was the organizing committee  
23 member who you contacted and who reached out to the NLRB, as  
24 you understand it, to get --

25 MR. FRUMKIN: Objection to relevance and intrudes on

1 Section 7 conversations. We are talking about the vote itself.

2 HEARING OFFICER ZWEIGHAFT: Overruled. She can answer  
3 that -- that question.

4 THE WITNESS: I spoke directly with -- (b) (6), (b) (7)(C)  
5 (phonetic throughout) was a organizing member.

6 Q Okay. And forgive me because I got a little confused.  
7 Does (b) (6), (b) (7)(C) go by a different last name as well?

8 A Yes. (b) (6), (b) (7)(C) (phonetic throughout) is (b) (6), (b) (7)(C) -- I  
9 think, (b) (6), (b) (7)(C) like, legal last name.

10 Q Okay. And you say (b) (6), (b) (7)(C) gave you a phone number, correct,  
11 to -- to the Labor Board?

12 A Yes.

13 Q Okay. And then tell us what -- what then happened.

14 A I called the number and set up the -- an appointment for,  
15 I believe, 12:00 that day. And then I went in, and there was  
16 no one else in the -- the office, so I was able to just get  
17 right in. It took, like, three to five minutes, the whole  
18 process.

19 Q So -- so when you got to the Labor Board, just for clarity  
20 of the record, in what town was the office you went to?

21 A Overland Park.

22 Q Okay. And when you say no one else was there, I'm not  
23 sure exactly what you mean. Tell -- tell me how many people  
24 were in the office as far as you could see and with whom you  
25 interacted to the extent you can tell us that.

1 A Just that there were no other partners or, like, anyone I  
2 knew present. It was just myself and a [REDACTED] that was, I  
3 believe, working in the office.

4 Q Okay. And when you got -- I -- I don't know the physical  
5 layout. I -- I imagine there's a sign that says National Labor  
6 Relations Board. You opened the door up and went in. Is that  
7 the layout generally?

8 A Yes.

9 Q And -- and was this [REDACTED] in the office present in the  
10 reception area when you got there?

11 A Yes.

12 Q Okay. Did [REDACTED] give you a name or did you ask a name?

13 A I did not.

14 Q Okay. And then tell us in as much detail as you recall  
15 what exactly happened.

16 A [REDACTED] handed me the packet and pointed to a room -- a  
17 private room next -- like, next door to enter and that I could  
18 vote in. And then once I was done, to just make sure I  
19 followed all the instructions in or on the packet and return  
20 it. And so I proceeded to do that.

21 Q Okay. And so I'm -- I'm inferring from what you're saying  
22 that there was a ballot. Don't tell us anything more about  
23 what you did with it in terms of marking it. You completed the  
24 ballot. And then did you -- how did you -- how did you return  
25 the ballot to this [REDACTED]?

1 A After sealing it, I just left the room and handed the copy  
2 physically to (b) (6), (b) (7)(C)

3 Q Okay. So that's what I was asking. You put it into an  
4 envelope and closed the envelope?

5 A Yes.

6 Q Okay. When you got to the NLRB office, what, if anything,  
7 did you say to this (b) (6), (b) (7)(C) and what did (b) (6), (b) (7)(C) say to you?

8 A Nothing whenever I was first coming in. On my way out, we  
9 just kind of had some small talk. (b) (6), (b) (7)(C) had asked about my last  
10 name and if I was related to a certain person, and I said no.  
11 And that was it. It was very just, like, how are you, how's  
12 your day going?

13 Q Okay. And I think you've indicated that (b) (6), (b) (7)(C) asked you  
14 your last name when you were leaving?

15 A Yes. (b) (6), (b) (7)(C) just, like, I -- I guess thought that my last  
16 name was familiar, so (b) (6), (b) (7)(C) was asking me if I was related to a  
17 certain person (b) (6), (b) (7)(C) knew.

18 Q Okay. Did (b) (6), (b) (7)(C) ask you for an ID to confirm that you are  
19 Alydia Claypool at any point in time?

20 A I don't believe (b) (6), (b) (7)(C) asked for an ID, but whenever I did  
21 enter the building, (b) (6), (b) (7)(C) knew my name. So I had assumed that  
22 (b) (6), (b) (7)(C) was expecting me to show up at exactly 12:00.

23 Q Okay. So I'm inferring from your response to us now that,  
24 when you came in, (b) (6), (b) (7)(C) said something to the effect of, hello,  
25 Ms. Claypool, or something like that.

1 A Yes.

2 Q Okay. I'm -- I'm just curious, from the vantage you had  
3 given where you were located, did you see anyone else in the  
4 NLRB office? I -- I understand you've already said there were  
5 no partners from the store there. Did you see anybody else  
6 besides this particular (b) (6), (b) (7)(C)?

7 A No. I -- I believe it was just the two of us in the  
8 building at that time.

9 Q And what -- what makes you say that?

10 A Just that there were very few cars in the parking lot and  
11 also just no one else in the office that I could see.

12 Q Okay. I'm -- I'm just going to ask a question now, and  
13 not expecting you to necessarily know the answer. Did this  
14 person indicate at any point (b) (6), (b) (7)(C) name was (b) (6), (b) (7)(C)

15 A I don't remember.

16 Q Okay. Did -- did this (b) (6), (b) (7)(C) who administered the process  
17 that you describe, did (b) (6), (b) (7)(C) ask you any questions relating to  
18 whether you had any COVID symptoms or had been ill in rec- --  
19 in recent days?

20 MR. FRUMKIN: Objection to relevance.

21 HEARING OFFICER ZWEIGHAFT: Sustained.

22 MR. MENDELSON: I'm sorry, Ms. Hearing -- Madam Hearing  
23 Officer, did you say sustained?

24 HEARING OFFICER ZWEIGHAFT: Yes.

25 Q BY MR. MENDELSON: Did the NLRB person wear a mask when





1     you came to the -- came to meet (b) (6), (b) (7)?

2             MR. FRUMKIN:  Objection to relevance.

3             HEARING OFFICER ZWEIGHAFT:  Sustained.

4             MR. MENDELSON:  So the Employer believes that it's  
5     entitled under the circumstances to ascertain what, if any,  
6     protocols that are utilized at that -- were utilized at that  
7     time for in-person elections were utilized in this instance.  
8     That's why I'm asking these questions.

9             HEARING OFFICER ZWEIGHAFT:  I don't -- this -- I don't  
10    think that this is the same circumstance as an in-person  
11    election.  And I -- I don't know what the protocols were for  
12    office visits at that time.

13            MR. MENDELSON:  Well, the office -- the protocol for --  
14    for in-person elections or for office visits can be ascertained  
15    from the staff from the standpoint that we know that this was,  
16    as the witness said, early April 2022.  In any event, that's --  
17    that's why I've asked this, and I would intend to ask --

18            HEARING OFFICER ZWEIGHAFT:  No.

19            MR. MENDELSON:  -- a couple more questions.

20            HEARING OFFICER ZWEIGHAFT:  I don't see how that's  
21    relevant.  I don't see how it could have affected the  
22    election -- the outcome of that -- of the election.  So I'm  
23    going to sustain that.

24    Q     BY MR. MENDELSON:  Just one minute, Ms. Claypool.  I -- I  
25    don't want to ask you the same question over again, so I'm

1 going through an outline just to see what, if anything, else I  
2 have. If you could just take it easy for a moment.

3 Ms. Claypool, during --

4 MR. MENDELSON: Strike that.

5 Q BY MR. MENDELSON: My understanding is that, at this time,  
6 there were chat groups that either store partners were -- some  
7 store partner utilized called Signal. And the other one, I  
8 think, was called Discord, D-I-S-C-O-R-D.

9 MR. FRUMKIN: Objection to relevance. This is far outside  
10 the bounds of how Ms. Claypool voted.

11 MR. MENDELSON: So -- so we --

12 HEARING OFFICER ZWEIGHAFT: What --

13 MR. MENDELSON: We served a subpoena, and it was a duces  
14 tecum. And I'm looking to see whether or not the witness has  
15 or would have responsive documents to that subpoena.

16 MR. FRUMKIN: If I may respond, the --

17 HEARING OFFICER ZWEIGHAFT: Well, let me -- before you do,  
18 I mean, the duces tecum deals with correspondence between the  
19 voter and the NLRB, does it not?

20 MR. MENDELSON: Correct. That is what the duces tecum --

21 HEARING OFFICER ZWEIGHAFT: (Indiscernible, simultaneous  
22 speech) --

23 MR. MENDELSON: -- sought.

24 HEARING OFFICER ZWEIGHAFT: Yeah. So I don't see how an  
25 employee chat group would be covered by that.

1 Q BY MR. MENDELSON: Ms. Claypool, is there any written  
2 correspondence, text, email, anything else between you and  
3 anyone at the Labor Board?

4 HEARING OFFICER ZWEIGHAFT: I'm going to -- I'm going  
5 to -- excuse me. I'm going to narrow that a little bit.  
6 Excuse me one moment. Do you -- did you have any written  
7 communication with regard to your appointment to come into the  
8 office for the purpose of voting?

9 THE WITNESS: Yes.

10 HEARING OFFICER ZWEIGHAFT: Okay. You can follow up on  
11 that.

12 Q BY MR. MENDELSON: So can -- yeah. Go ahead. Go ahead,  
13 Ms. Claypool. I thought she was directing herself to me.  
14 She's directing herself to you. You're correct answering.

15 A So after getting off the phone with the NLRB (b) (6), (b) (7)(C) that I  
16 had spoken to, (b) (6), (b) (7)(C) texted me confirming that I had a  
17 appointment at 12 p.m. So that would have been the only  
18 message that I received from (b) (6), (b) (7)(C).

19 Q Okay. Did -- do you still have that text?

20 A I do, yes.

21 MR. MENDELSON: Madam Hearing Officer, would it be  
22 appropriate for the witness to search for the text at this  
23 point?

24 HEARING OFFICER ZWEIGHAFT: If you -- if you have it. Do  
25 you have --

1 THE WITNESS: Oh.

2 HEARING OFFICER ZWEIGHAFT: -- your phone, please?

3 THE WITNESS: I have it in a drawer, like, in -- like, in  
4 front of me.

5 HEARING OFFICER ZWEIGHAFT: Okay. You take a look for it.

6 THE WITNESS: Okay. Okay. I found it.

7 Q BY MR. MENDELSON: Okay. And why don't you -- let's start  
8 with you just reading it to us.

9 A (b) (6), (b) (7)(C) said, hi, it's (b) (6), (b) (7)(C) (phonetic throughout) with the  
10 NLRB. (b) (6), (b) (7)(C) (phonetic throughout) confirmed you will need to  
11 wear a mask and show ID.

12 Q I'm sorry. I heard you say it's (b) (6), (b) (7)(C) and then I didn't  
13 hear the rest. And I'm sorry for that.

14 A Oh, sorry. (b) (6), (b) (7)(C) said, hi, my name is (b) (6), (b) (7)(C) Or, hi, it's  
15 (b) (6), (b) (7)(C) with the NLRB. (b) (6), (b) (7)(C) confirmed you will need to wear a  
16 mask and show ID. Thank you.

17 Q Okay. Thank you. And does it have the date?

18 A (b) (6), (b) (7)(C).

19 Q Thank you. Does that refresh -- or I'm sorry.

20 MR. MENDELSON: I'm sorry. I'll withdraw that question.

21 Q BY MR. MENDELSON: When -- when you got to the NLRB and  
22 you met the (b) (6), (b) (7)(C) there, did you conclude, and if you didn't  
23 then say so, that the person who had written you the text was  
24 the person who met with you at the NLRB?

25 A I don't believe so.

1 Q You don't believe you made that conclusion, or you don't  
2 believe they were the same person?

3 A I don't think they were the same person.

4 Q Okay. And -- and can I ask why you don't think that they  
5 were the same person?

6 A I can't remember all the -- the details exactly, but I  
7 believe, on the phone, (b) (6), (b) (7) -- (b) (6), (b) (7) had said that (b) (6), (b) (7) had to call  
8 that office to confirm the appointment. So I don't believe --  
9 I believe (b) (6), (b) (7) would have called the -- the person working in  
10 the office that day.

11 Q I -- I understand. Thank you. To whom, if anyone, among  
12 the store employees did you communicate that you were arranging  
13 to vote at the NLRB or that you had voted physically at the  
14 NLRB?

15 MR. FRUMKIN: I'm going to object to relevance. This is  
16 Section 7 protected and it doesn't bear on how Ms. Claypool  
17 voted.

18 MR. MENDELSON: It --

19 HEARING OFFICER ZWEIGHAFT: It -- go ahead, Mr. Mendelson.

20 MR. MENDELSON: It -- well, it -- it bears on our effort  
21 at this point with the record being, from our standpoint,  
22 incomplete as to trying to ascertain how many people either  
23 voted in person or had an invitation to vote in person. I  
24 mean, it would require follow-up questions to the witness  
25 and -- and I guess our -- not I guess. Our position is Sec- --

1 Section 7 is not so absolutist that it doesn't give way to  
2 allow us to establish the facts that relate to this issue.

3 HEARING OFFICER ZWEIGHAFT: Okay. I'll -- Ms. Clay --  
4 yeah, I -- I'm going to sustain the objection.

5 MR. MENDELSON: I -- I think I'd just ask you to give me  
6 two minutes to talk to my colleagues. I -- I realize I forgot  
7 to say at the outset of the examination simply to do what we  
8 talked about off the record. I would do it now if I could.

9 Ms. Schneider, or I guess I'm also directing myself to the  
10 hearing officer, are there any written statements of this  
11 witness that relate to the question and issue?

12 MS. SCHNEIDER: There are not.

13 MR. MENDELSON: Thank you.

14 HEARING OFFICER ZWEIGHAFT: And I -- I just want to be  
15 clear on the record. Ms. Schneider is the person to ask. I'm  
16 not privy to their -- to the file. So if there were any  
17 statements, I'm not aware of them.

18 MR. MENDELSON: Okay. Thank you. May I have a few  
19 minutes to talk to Ms. Doud and Ms. Carter?

20 HEARING OFFICER ZWEIGHAFT: Yes. We're going to go off  
21 record. Ms. Claypool, just sit tight for a moment and don't  
22 talk to anybody. We'll be right back, okay? You can just --

23 THE WITNESS: Okay.

24 HEARING OFFICER ZWEIGHAFT: -- stay on the stand and just  
25 stay on camera so you can -- but if you want to move or

1 something, you can, okay? Off the record.

2 (Off the record at 11:28 a.m.)

3 **RESUMED DIRECT EXAMINATION**

4 Q BY MR. MENDELSON: If I could ask you to look back at your  
5 phone, is there a time on that text message?

6 A Yes, there is.

7 Q And what time is it?

8 A 9:10 a.m.

9 Q Okay. And -- and am I correct in understanding that you  
10 had phoned the Labor Board that morning before that 9:10 a.m.  
11 text?

12 A I believe so, yes.

13 Q Okay. The room where you cast the ballot, where you say  
14 you filled it out and put it in the envelope, how far was that  
15 from the area where the (b) (6), (b) (7)(C) who had met you from the Labor  
16 Board was located?

17 A Like, the main, I guess, lobby area. (b) (6), (b) (7)(C) would have been,  
18 like, behind, like, a closed door and glass window. And so it  
19 was by where -- like, heading into the building, it would have  
20 just been a room right next to that. So in view of it.

21 Q Okay. And did you close the door, assuming there was a  
22 door to the room, that (b) (6), (b) (7)(C) directed you to go into?

23 A Yes.

24 Q Did -- did (b) (6), (b) (7)(C) accompany you to that room, or did (b) (6), (b) (7)(C)  
25 point to it and suggest you go there?

1 A (b) (6), (b) (7)(C) pointed to it.

2 Q Okay. And who, if anyone, from the Union did you  
3 communicate with about not receiving the ballots that you  
4 understood were to be mailed to you?

5 MR. FRUMKIN: Objection to relevance. This is about how  
6 Ms. Claypool went and voted.

7 MR. MENDELSON: Well, I think -- I think --

8 HEARING OFFICER ZWEIGHAFT: Can you repeat the question?

9 MR. MENDELSON: Who -- who, if anyone, from the Union did  
10 you communicate with regarding your not having received a  
11 ballot by mail from the NLRB?

12 HEARING OFFICER ZWEIGHAFT: I -- I think her testimony is  
13 already that she spoke to (b) (6), (b) (7)(C)

14 MR. MENDELSON: That's -- that --

15 HEARING OFFICER ZWEIGHAFT: And that (b) (6), (b) (7)(C) is the person  
16 who told her to call the Labor Board.

17 MR. MENDELSON: That's correct. It doesn't mean that it's  
18 mutually exclusive that she had any kind of communication with  
19 the Union about this. And that's what I'm trying to ascertain,  
20 who --

21 HEARING OFFICER ZWEIGHAFT: But I think -- I think given  
22 her testimony, that's outside the scope of what we would need,  
23 so.

24 Q BY MR. MENDELSON: Who, if anyone, from the Union did you  
25 communicate with about either making the appointment to vote or



1     having gone to the Labor Board to cast the ballot?

2           MR. FRUMKIN: I object on the same grounds. It also  
3 intrudes on Section 7 activity. Further, to the extent that it  
4 calls for a post-hoc communication with the Union, that would  
5 not bear on the outcome of the election. And so it's  
6 irrelevant.

7           MR. MENDELSON: So -- so the company's position remains,  
8 both as to the prior question and this one, that it's entitled  
9 to explore this so that it can ascertain the full scope of what  
10 transpired and who else, if anyone, is a potential pertinent  
11 witness or who has pertinent documentation, at least  
12 potentially.

13          HEARING OFFICER ZWEIGHAFT: Sustained.

14          MR. MENDELSON: I have no further questions of this  
15 witness at this time.

16          HEARING OFFICER ZWEIGHAFT: Okay. Mr. Frumkin, are you  
17 taking this witness for questioning?

18          MR. FRUMKIN: Yes, Madam Hearing Officer. May I have a  
19 few minutes to consult with co-counsel?

20          HEARING OFFICER ZWEIGHAFT: Yeah. And Ms. Schneider, do  
21 you anticipate having some questions?

22          MS. SCHNEIDER: I may, depending on what questions the  
23 Petitioner asks first. But I can use -- I won't need  
24 additional time.

25          HEARING OFFICER ZWEIGHAFT: Okay. So how long do we need?

1 MR. FRUMKIN: Just five minutes, please.

2 HEARING OFFICER ZWEIGHAFT: Okay. So Ms. Claypool, we're  
3 going to go off the record again for five minutes. Again, you  
4 can take a little break, but don't talk to anybody during these  
5 five minutes, and we'll be -- we'll come back at -- in New York  
6 it's 11:40 -- or it's 11:35 now, so we'll come back in five  
7 minutes, at 11:40 New York time. Okay.

8 Off the record.

9 (Off the record at 11:36 a.m.)

10 HEARING OFFICER ZWEIGHAFT: Okay. Back on the record.

11 Go ahead, Mr. Frumkin.

12 MR. FRUMKIN: Thank you.

13 **CROSS-EXAMINATION**

14 Q BY MR. FRUMKIN: Good morning, Ms. Claypool. I have just,  
15 I think, four questions for you. I want to confirm, when you  
16 were in the room off to the side, to which the Board employee  
17 directed you when you voted, were you alone in that room?

18 A Yes.

19 Q And you mentioned you closed the door behind you?

20 A Yes.

21 Q So when you voted, it was private?

22 A Yes.

23 Q And then when you sealed your ballot, were you still alone  
24 in the room?

25 A Yes.



1 Q And the door was still closed when you did so?

2 A Yes.

3 Q Okay. Now, we've spoken with two -- we've spoken about  
4 two different Board agents in the course of your prior  
5 testimony, and I want to make sure about my understanding of  
6 those conversations. When you spoke with [REDACTED] on the phone, did  
7 you have any type of conversation about how you planned to vote  
8 in the election?

9 A No.

10 Q And I have the same question for you about the individual  
11 you spoke with at the subregional headquarters that you  
12 visited. Did you speak with [REDACTED] about how you intended to  
13 actually vote in the Union --

14 A No.

15 Q -- election?

16 A No, I did not.

17 MR. FRUMKIN: Okay. Thank you. No further questions.

18 HEARING OFFICER ZWEIGHAFT: Ms. Schneider, do you have any  
19 questions?

20 MS. SCHNEIDER: Yes. Thank you.

21 **CROSS-EXAMINATION**

22 Q BY MS. SCHNEIDER: Ms. Claypool, thank you for being here  
23 today. I do have a few questions for you. Based on your  
24 conversations with -- or was it a single conversation with the  
25 Board agent before arriving at the Overland Park office?

1 A Yes.

2 Q Okay. And based on that conversation, was it your  
3 expectation that you would arrive at the office to receive a  
4 ballot or to receive a ballot and vote?

5 A Receive and vote.

6 Q Okay. And do you know -- the person that you spoke with  
7 in advance of coming to the office, you said (b) (6), (b) (7) name was (b) (6), (b) (7)?  
8 Do you know where (b) (6), (b) (7) is located?

9 A I do not.

10 Q Okay. When you arrived at the Overland Park office, was  
11 the Board agent waiting for you, or did you have to ring the  
12 doorbell or otherwise announce your presence so that (b) (6), (b) (7) could  
13 come out to meet you?

14 A I believe (b) (6), (b) (7) was waiting for me. (b) (6), (b) (7) didn't leave (b) (6), (b) (7),  
15 like, area that was kind of sealed off for, like, someone,  
16 like -- like a visitor to come in. So yeah, the door was  
17 unlocked, everything like that.

18 Q Just so we can understand the layout of the office, you  
19 were -- you were able to open a door into the office suites; is  
20 that right?

21 A Yes.

22 Q Or into like a -- and that was into, like, a reception  
23 area; is that right?

24 A Yes.

25 Q But the Board agent remained behind a glass -- a closed

1 room; is that right?

2 A Yes.

3 Q Okay. When you read the text message onto the record a  
4 few minutes ago you stated that it said, "(b) (6), (b) (7)(C) confirmed,  
5 wear a mask and show an ID." Does that -- does reading that  
6 change your recollection of whether the NLRB agent checked your  
7 ID when you got to the office?

8 A Yes. Because I would have -- I would have just had it  
9 ready to show them as well.

10 Q Okay. And do you -- do you recall whether they did look  
11 at your ID?

12 A I -- I believe so if it -- if I would have been directed  
13 to show an ID, and I would have just kind of had it already  
14 ready walking into the building.

15 Q Okay. And can I ask you to clarify that? Do you recall  
16 whether (b) (6), (b) (7)(C) actually did check your ID?

17 A I believe so.

18 Q Okay. Did you sign in or otherwise indicate your  
19 presence?

20 A I don't believe so.

21 Q Okay. And you testified that you sealed your envelope  
22 with the ballot inside while you were still alone in the  
23 private room with the door closed. Did you also sign across  
24 the seal on that envelope?

25 A Yes.

1 Q And where were you when you did that?

2 A Alone in the same room.

3 Q Okay. And then you personally handed that sealed, signed  
4 envelope to the NLRB agent who was present?

5 A Yes.

6 Q And when you gave it to (b) (6), (b) (7)(C), was (b) (6), (b) (7)(C) still behind -- in  
7 the locked office?

8 A Yes.

9 MS. SCHNEIDER: I have no further questions. Thank you.

10 HEARING OFFICER ZWEIGHAFT: Okay. Thank you.

11 Ms. Claypool, I just have a couple of quick questions for  
12 you. You mentioned (b) (6), (b) (7)(C) Is -- is (b) (6), (b) (7)(C) another Starbucks  
13 partner?

14 THE WITNESS: (b) (6), (b) (7)(C) was at the time. (b) (6), (b) (7)(C) is no longer.

15 HEARING OFFICER ZWEIGHAFT: Okay. Thank you. When you  
16 got to the office and spoke to the Board agent who was there,  
17 the Board agent gave you your ballot, do you remember, like,  
18 specifically what was handed to you?

19 THE WITNESS: It was a, like, large envelope with -- I  
20 believe inside was a paper, kind of like a checklist of how to  
21 vote so that your ballot is counted. And then there was I  
22 think like one or two -- there was papers. I can't what  
23 exactly they were. But then just the actual ballot itself.

24 HEARING OFFICER ZWEIGHAFT: Okay. And I mean, I think you  
25 testified there was also an envelope?

1 THE WITNESS: Yes.

2 HEARING OFFICER ZWEIGHAFT: And did you review any of  
3 those materials with the Board agent, or did you just go into  
4 the -- did you take those into the room?

5 THE WITNESS: I just took them into the room and opened  
6 them up there and reviewed them.

7 HEARING OFFICER ZWEIGHAFT: Okay. I don't -- I don't have  
8 any further questions, but I'm going to allow the parties, if  
9 they want to follow up on anything.

10 So Mr. Mendelson, do you have any follow-up or redirect  
11 based on my questions, or Mr. Frumkin or Ms. Schneider's  
12 questions? You're muted.

13 MR. MENDELSON: Sorry. Just a bit.

14 HEARING OFFICER ZWEIGHAFT: Go ahead.

15 **REDIRECT EXAMINATION**

16 Q BY MR. MENDELSON: Ms. Claypool, let's -- let's start with  
17 how did the (b) (6), (b) (7)(C) you described as behind the glass provide the  
18 envelope to you?

19 A (b) (6), (b) (7)(C) would have slid it -- there was like a small opening  
20 towards the bottom of the glass, and (b) (6), (b) (7)(C) slid it through there.

21 Q Okay. And then you mentioned in response to the hearing  
22 officer's questions that there were these other documents along  
23 with the ballot and the envelope in the bigger envelope. What  
24 did you do with those other papers -- those other documents?

25 A I think they all -- can't exactly remember if I would have

1 left them in the envelope -- like the larger envelope that it  
2 all came in. But I just would have followed the instructions  
3 on what to leave into the actual ballot envelope and what to  
4 discard.

5 Q But did -- did you take any of those other documents with  
6 you as you left the office -- the NLRB office?

7 MR. FRUMKIN: Objection.

8 HEARING OFFICER ZWEIGHAFT: I'll -- I'll allow it.

9 A I don't believe so.

10 MR. MENDELSON: Once again, could I just have one minute  
11 to talk with my colleagues?

12 HEARING OFFICER ZWEIGHAFT: Yes.

13 MR. MENDELSON: Thank you.

14 HEARING OFFICER ZWEIGHAFT: Off the record.

15 (Off the record at 11:49 a.m.)

16 HEARING OFFICER ZWEIGHAFT: Back on the record.

17 MR. MENDELSON: No -- no further questions of this witness  
18 at this time.

19 HEARING OFFICER ZWEIGHAFT: Okay. Mr. Frumkin, did you  
20 have any redirect based on Employer's redirect? I'm sorry, do  
21 you have any recross based on the redirect?

22 MR. FRUMKIN: Yes, I do. One question.

23 **RECROSS-EXAMINATION**

24 Q BY MR. FRUMKIN: Ms. Claypool, did -- when you first went  
25 into the Board office and spoke with the agent there, did [REDACTED]



1 give you any special instructions about how to vote beyond what  
2 was contained in the envelope?

3 A No.

4 MR. FRUMKIN: Thank you. That's all.

5 HEARING OFFICER ZWEIGHAFT: Thank you.

6 Ms. Schneider, do you have anything additional?

7 MS. SCHNEIDER: Nothing additional. Thank you.

8 HEARING OFFICER ZWEIGHAFT: Okay. And I don't have  
9 anything additional either.

10 Ms. Claypool, I really appreciate your participation this  
11 morning. Thank you very much for -- for appearing, and for  
12 your testimony. I appreciate it.

13 THE WITNESS: Thank you as well.

14 HEARING OFFICER ZWEIGHAFT: Let me see in the waiting  
15 room. Okay. Hannah (sic) Quigley is in the waiting room.  
16 That's the only other person in the waiting room.

17 MR. MENDELSON: Okay. So at this point we would -- we do  
18 call Sarah (sic) Quigley.

19 HEARING OFFICER ZWEIGHAFT: Okay. Is it Sarah or Hannah?

20 MR. MENDELSON: My understanding was it was Sarah. Am I --

21 HEARING OFFICER ZWEIGHAFT: Okay.

22 UNIDENTIFIED SPEAKER: Sage.

23 MR. MENDELSON: Oh, Sage. Yeah. Yeah.

24 HEARING OFFICER ZWEIGHAFT: All right. So all right. It  
25 says Hannah here, but we'll get this correct on the record, I

1 think.

2 Good morning, Ms. Quigley. I'm Rachel Zweighaft. I'm the  
3 hearing officer in this case.

4 MS. QUIGLEY: Hello.

5 HEARING OFFICER ZWEIGHAFT: Can you please -- the Employer  
6 has called you as a witness. Can you please raise your right  
7 hand?

8 Whereupon,

9 **SAGE QUIGLEY**

10 having been duly sworn, was called as a witness herein and was  
11 examined and testified as follows:

12 HEARING OFFICER ZWEIGHAFT: Can you also state and spell  
13 your name for us?

14 THE WITNESS: Sage Quigley, S-A-G-E Q-U-I-G-L-E-Y.

15 HEARING OFFICER ZWEIGHAFT: Okay. Thank you. And I just  
16 want to let you know, before the Employer asks you any  
17 questions, if you can't hear us or if you have any technical  
18 issues, please let us know right away so we can try and resolve  
19 those. If you don't understand a question, please let us know  
20 that, too, so that we can rephrase the question for you. I  
21 just want to let you know at the outset that you may be asked  
22 some questions about the voting process in this election, but I  
23 don't want any testimony about how you voted, what your choice  
24 in the election was, or your Union sentiments, or your --

25 Wait, did we -- I think we just lost the witness. Okay.



1 Let me see if -- okay. I do not see her in the waiting room or  
2 on the Zoom at this point, so let's go off the record, and then  
3 we'll go back on when she comes back into the Zoom. Okay?

4 So off the record.

5 (Off the record at 11:55 a.m.)

6 HEARING OFFICER ZWEIGHAFT: All right. Back on the  
7 record.

8 Okay. So Ms. Quigley, as I was just saying, I don't want  
9 any testimony about how you voted, or your feelings about the  
10 Union, we just really want to know about the mechanics of  
11 voting itself. Okay?

12 THE WITNESS: Yes.

13 HEARING OFFICER ZWEIGHAFT: So having said that, I will  
14 allow Mr. Mendelson to proceed.

15 MR. MENDELSON: Thank you. Before -- before beginning the  
16 questioning, I'll direct myself to Ms. Schneider. Is there any  
17 Board -- any witness statement relating to the matters at issue  
18 today?

19 MS. SCHNEIDER: There is not.

20 MR. MENDELSON: Thank you.

21 **DIRECT EXAMINATION**

22 Q BY MR. MENDELSON: Sage, if I were to refer to you by your  
23 last name, how would you prefer I do that?

24 A You can just say Quigley, because, yeah, I don't prefer  
25 Ms. or Mr.

1 Q Okay. Thank you. That's why I was asking.

2 A Thanks for asking.

3 Q Okay. So Quigley, am I correct that you are currently  
4 employed by Starbucks?

5 A Correct.

6 Q And I'm interested in understanding how you came to vote  
7 in the election. So tell me, to the best of your  
8 recollection -- well, let me back up. How -- how did you  
9 understand the vote was to be conducted? If you had such an  
10 understanding.

11 A From my understanding, I was to get a ballot in the mail,  
12 and then send it back via mail. I never got a ballot in the  
13 mail, so I went and voted in person. And yeah, there were a  
14 few of my coworkers that didn't. So then we all just kept  
15 checking in to see if anybody got theirs in the mail, and there  
16 were a few of us that didn't. We just tried to set up a time  
17 that we could all go together. I ended up not being able to go  
18 with everybody else, so I set up my own appointment to go vote  
19 in person.

20 Q Okay. Good. Thank you. That -- that was helpful,  
21 because you answered a whole bunch of questions that I don't  
22 have to ask now. How did you set up that appointment? And you  
23 haven't stated where you set it up. So to the extent you could  
24 indicate that, that would be helpful.

25 A Yeah. I texted -- I don't remember -- I honestly don't



1 know who I texted, but somebody from the NLRB office, and they  
2 basically just said, does this time work, and I said, yes. And  
3 I showed up at the NLRB office in Overland Park, I think, at  
4 [REDACTED]. I don't know. And -- yeah.

5 Q Okay. How did you get a phone number of someone at the  
6 NLRB to text?

7 A Well, I --

8 MR. FRUMKIN: I'll object. The -- again that it calls for  
9 Section 7 protected communications, and to the extent that it's  
10 irrelevant because it doesn't speak to how Sage actually voted.

11 HEARING OFFICER ZWEIGHAFT: Okay. Overruled. She can --  
12 excuse me --

13 MR. MENDELSON: Quigley.

14 HEARING OFFICER ZWEIGHAFT: -- Sage can answer that  
15 question -- or Quigley. Would you -- would you prefer that we  
16 say Sage or Quigley? Which would you prefer?

17 THE WITNESS: I don't care. Pronouns are they, them  
18 though. But I don't care how you refer to me.

19 HEARING OFFICER ZWEIGHAFT: I apologize.

20 THE WITNESS: All good.

21 HEARING OFFICER ZWEIGHAFT: Okay. So you can answer the  
22 question.

23 A What was the question? You said how did I get there?

24 Q BY MR. MENDELSON: How did you get -- how did you get a  
25 phone number to text someone at NLRB?

1     A     Well, originally, like, when we were all going to go  
2     together, and I let my coworkers know that I couldn't go at the  
3     same time as them. And so then I -- I don't remember how I got  
4     the phone number. I think I tried to call, but then they  
5     texted me back, so.

6     Q     Do you -- do you have any of those texts presently on your  
7     phone?

8     A     Probably. I don't really delete stuff. But probably,  
9     somewhere.

10    Q     Do you -- do you recall approximately when you voted and  
11    these matters leading up to your voting were unfolding?

12    A     All I remember for sure is that by the time I voted it  
13    was, like, a couple days before, like -- I don't remember,  
14    like, what sort of time limit was on it, but I know that there  
15    was, like, a time that votes had to be in, or whatever. So I  
16    know it was coming up to, like, the end of it, because that's  
17    why I was -- why I had to go to Overland Park I think is that  
18    we were just waiting for it to get into the mail. I know it  
19    was in March, but I don't remember exact dates. But when they  
20    texted, it was the same day that I went and -- to the  
21    appointment. It was the same -- same day.

22    Q     Okay. Thank you. I'm going to represent to you that  
23    you're correct, some of this as unfolding at the end of March  
24    into early April. Do you have your phone accessible? I think  
25    the hearing officer will allow me to ask you if you can locate

1 one or more texts that you're referring to.

2 A I have my phone. It might take me a minute to scroll  
3 back, because I don't have, like, the number saved. So I'm  
4 going to have to --

5 Q Of course. Of course. We understand this is not someone  
6 you text regularly. If you could take a quick look and just  
7 see if you can locate one or more texts that you're referring  
8 to. And that's why I represented to you it's probably in the  
9 early -- first week of April. It was probably too -- it could  
10 have been the end of March but was probably the first week of  
11 April.

12 A All right. And so you're wanting me to find the date that  
13 I texted? Is that the information you're looking for?

14 Q Well, it's the date and the substance of the text. If  
15 you're able to locate it, we would want you to read any texts  
16 between you and the Labor Board and -- and vice versa.

17 A All right. All right. Okay. I have it.

18 Q And why don't you -- why don't you read it to us, the  
19 date, the time, if you can see that, and then read the  
20 substance. And if there's any other indication of who the  
21 person at the Labor Board was, that would be helpful, too.

22 A I've got you. I'll just read the whole thing. Okay. So  
23 on Monday, (b) (6), (b) (7)(C) at 9:28 a.m. I got a message. Says,  
24 "Sage, this is (b) (6), (b) (7)(C) with the NLRB. Can you come in after  
25 work around 1:15?" I said, "Yes. Where's the office located?"



1     (b) (6), (b) (7) gave me the address and said, "Wear a mask, bring an ID."

2     And I said, "Thank you." That's everything.

3     Q     Okay. Thank you. So that -- that's a string of four  
4     texts in total?

5     A     Right.

6     Q     Okay. So tell us then what unfolded from everything in  
7     terms of -- I think you already mentioned you went down there  
8     the same day to vote. I think you said that. So just tell us  
9     how that all happened.

10    A     I drove to the office. Went it. Gave them my ID. My  
11    legal name on my ID is different than Sage, so you know, they  
12    were, like, just checking that it was all good. And I just  
13    explained that my ballot says Sage because that's what I go by  
14    at Starbucks. And then they gave me my ballot. They said --  
15    you know, they explained how to fill it out, and then they sent  
16    me to, like, a private room, like, with nobody in it. And I  
17    filled it out and then I gave it back -- I slipped it back to  
18    them under the, you know, glass thing.

19    Q     Okay. One second. I'm just taking a note. So you  
20    said -- well, who -- how -- how many people met you when you  
21    got to the NLRB?

22    A     Well, there was, like, one -- like, at least one sitting  
23    at the desk. But then there were a couple other people hanging  
24    around. It was all, like, behind, like, a glass, like thing.  
25    There was, like, a small little office. So like, there were a



1 couple of them in there, like -- so I think there were three,  
2 total, probably in there when I went in and met them. But only  
3 one really talking to me.

4 Q What was the last thing you said? I'm sorry.

5 A Only, like, one of them is really, like, talking to me.

6 Q And can you describe the person who spoke to you?

7 A No. I don't remember anything about them.

8 Q Was it -- was it, by appearance, a (b) (6), (b) (7)(C)?

9 A Probably, yeah.

10 Q And do you remember, by appearance, the other two people?  
11 You estimated there were three people.

12 A Yeah, I -- they were just, like, all (b) (6), (b) (7)(C), probably.

13 Q Okay. And then you said something about someone  
14 explaining to you how to fill out the ballot. What -- what  
15 more can you tell me about that?

16 A They just, you know -- I don't know. They were just like,  
17 here you go, fill -- fill this out, put it back in the  
18 envelope, give it back. I don't remember if there was, like,  
19 two sides or anything like that. But yeah, I don't know.  
20 That's it.

21 Q Okay. And I think you mentioned you went to a room?

22 A Right.

23 Q Did -- did they -- that person or persons take you to that  
24 room, point you to that room?

25 A No, they just pointed to the room, because the room was

1 on, like, my side of the door, so they didn't have, like,  
2 access to the area that I would have access to. So they just  
3 pointed to the room. Went in there. Shut the door. Came back  
4 out. Gave it to them.

5 Q Okay. And what -- what did that person give you to take  
6 to the room?

7 A Just a ballot, and probably a pen. I don't remember if  
8 the pen was in the room already or if they gave one to me. But  
9 just that.

10 Q Okay. And you mentioned something -- I know I asked you a  
11 follow-up question explaining how to fill out the ballot. Did  
12 they show you the ballot in any respect as they explained it?

13 A No.

14 Q Okay. And how long would you say this entire process  
15 lasted, from when you first got to that office and then  
16 returned the ballot?

17 A Less -- less than five minutes. It was pretty quick. No  
18 one else was in -- in there or anything.

19 Q How long were you in that separate room?

20 A 30 seconds.

21 Q Okay. And how far would you say the room was from where  
22 that person was behind the glass?

23 A Like 30 feet away. Pretty close.

24 Q Okay. You mentioned before that at one point you were  
25 communicating with others about a group of people going to --

1 to the Labor Board. I want to just explore that. Did you  
2 understand that everyone in that group was to go to the Labor  
3 Board to cast their ballot?

4 MR. FRUMKIN: Objection to relevance. It is irrelevant  
5 what Sage understood. And in any event, it's counterfactual to  
6 what actually did take place.

7 MR. MENDELSON: Well, I don't -- I don't know that to be  
8 true at all, and so I'm a bit surprised you're questioning the  
9 witness' recollection here. I think I should be able to  
10 explore that.

11 HEARING OFFICER ZWEIGHAFT: Yeah, I'll allow this. I'll  
12 allow a little leeway on this.

13 Q BY MR. MENDELSON: So -- so let's go back, Quigley.  
14 Did -- did you understand that those people were looking to go  
15 to the Labor Board to actually vote their ballot?

16 A I -- I assumed, because that's what I was doing too.

17 Q Okay. And -- and how many other people besides yourself  
18 comprised that group?

19 A I mean, I'm not for sure, because I ended up going alone,  
20 so I don't know who ended up getting their ballot or who ended  
21 up going and voting in person.

22 Q Were the communications about this by phone, by text, by  
23 email? How did you know what --

24 MR. FRUMKIN: I object to relevance. Like with the prior  
25 witness, this is about how Sage actually voted and should not

1 intrude on Section 7 communications.

2 HEARING OFFICER ZWEIGHAFT: Yeah. So Sage, I agree that I  
3 don't want to -- I don't want to get into discussions about the  
4 Union, but I will allow you to just tell me how -- how did you  
5 know that other employees were going to -- to the regional  
6 office?

7 THE WITNESS: I mean, honestly, it could have been  
8 something that was said in person at work, or -- or in our  
9 group chat. I don't know. Because it was kind of something  
10 that was brought up a lot because there -- it kind of like -- I  
11 mean, for me especially, I was just getting really worried  
12 because I wasn't getting my ballot. So I was always checking  
13 in, like, hey, did you get your ballot? Like, is everyone else  
14 getting their ballot except me? And there was always like a  
15 couple more said, hell, no, I didn't get mine either. And  
16 then -- but you know, eventually some people did. So it was  
17 just a constant checking in. I mean, I know Alydia didn't get  
18 hers because we were going to go together, me and Alydia, at  
19 one point, so. Because I think we went on the same day but  
20 didn't -- didn't work out that our time worked out, so.

21 HEARING OFFICER ZWEIGHAFT: Okay. And that -- by Alydia,  
22 you mean Alydia Claypool?

23 THE WITNESS: Yes.

24 HEARING OFFICER ZWEIGHAFT: Okay. I'm just going to ask  
25 one more question and then I'll give it -- I'll defer back to

1 Mr. Mendelson.

2 Do you know how many people went to the office to vote?

3 THE WITNESS: No.

4 HEARING OFFICER ZWEIGHAFT: Okay.

5 Mr. Mendelson, you can resume.

6 MR. MENDELSON: Thank you.

7 Q BY MR. MENDELSON: Do you know whether the --

8 MR. MENDELSON: Strike that.

9 Q Do you know whether any of the group chats that addressed  
10 the matter of who had not gotten a ballot and was considering  
11 going to the Labor Board office were on signals, on the scores,  
12 or both?

13 MR. FRUMKIN: Objection to relevance. This is all Section  
14 7 protected and has nothing to do with how Sage or anyone else  
15 would know this.

16 HEARING OFFICER ZWEIGHAFT: Yeah. I'm going to -- I'm  
17 going to sustain that.

18 Q BY MR. MENDELSON: So -- so quickly, just don't -- don't  
19 despair. When I'm not talking to you is I'm eliminating from  
20 outlying questions that I would otherwise ask you. I don't  
21 want to ask the same question again. So just relax for a  
22 moment while I eliminate those potential questions, because  
23 I've asked them already.

24 Besides the three people that you estimated you saw in --  
25 in that reception area, did you -- did you see anybody else in

1 the Labor Board office?

2 A No.

3 Q And if you recall, when you talked -- I -- forgive me, I  
4 think you said you drove there, am I correct about that?

5 A Correct.

6 Q Did you -- approximately how many cars did you see in the  
7 parking lot?

8 MR. FRUMKIN: Objection to relevance.

9 HEARING OFFICER ZWEIGHAFT: Sustained.

10 THE WITNESS: Wait. So do I answer that?

11 MR. MENDELSON: No, no, no, no. If she sustained the  
12 objection, you don't have to.

13 THE WITNESS: I know. I know.

14 HEARING OFFICER ZWEIGHAFT: Thank you.

15 Q BY MR. MENDELSON: When you arrived at the Labor Board  
16 office, did the person who you interacted with ask whether you  
17 or anyone else at the store had any COVID-type symptoms?

18 MR. FRUMKIN: Objection. Relevance.

19 HEARING OFFICER ZWEIGHAFT: Sustained.

20 Q BY MR. MENDELSON: Were any other partners from the store  
21 present at the NLRB office when you were there?

22 MR. FRUMKIN: Objection. I think asked and answered or  
23 already in testimony.

24 HEARING OFFICER ZWEIGHAFT: I -- I agree. But I'll let  
25 her answer again. Excuse me, I'll let them answer again. I'm

1     sorry.

2     A     No.  I was the only one there.

3     Q     BY MR. MENDELSON:  Did you have any communications with  
4     anyone associated with the Union regarding not receiving your  
5     mail ballot or the arrangements you made to go to the Labor  
6     Board office to vote or the actual going of -- to the Labor  
7     Board office to vote?

8           MR. FRUMKIN:  Objection.  First off, it's a compound  
9     question.  Second off, it's irrelevant to how Sage actually did  
10    end up voting.  And third, it intrudes on Section 7, protected  
11    communications.

12           HEARING OFFICER ZWEIGHAFT:  Yeah.  I -- if you want to ask  
13    a different way.  I agree that, I think, based on the  
14    testimony, I -- I'm going to sustain that.  And if -- oh, I  
15    have -- you want to try to rephrase it differently in this?

16    Q     BY MR. MENDELSON:  Did -- did you have any communications,  
17    oral or written, with anyone associated with the Union about  
18    not having received your mail ballot?

19           MR. FRUMKIN:  Again, I'll renew the ob -- objection, in  
20    terms of relevance.  And it intrudes into Section 7 protected  
21    communications.

22           HEARING OFFICER ZWEIGHAFT:  I'm going to -- I'm going to  
23    allow this question.  And I'll allow very little follow up.  
24    I'm giving you a little bit of leeway.  But I'm not -- but you  
25    could --

1 Quigley, you can answer that.

2 A I don't really think so, mostly just talked to my  
3 coworkers, might have told our rep that I didn't have my ballot  
4 yet. But at that time, I feel, like, more likely if my rep  
5 knew that is because my coworkers went and said a bunch of us  
6 didn't receive our ballots at that time. I don't think I  
7 personally told her at all.

8 HEARING OFFICER ZWEIGHAFT: Okay. Thank you.

9 MR. MENDELSON: Thank you. If you could give me five  
10 minutes? I want to talk to my colleagues and may be over or  
11 almost over.

12 HEARING OFFICER ZWEIGHAFT: Okay. Off the record.

13 (Off the record at 12:17 p.m.)

14 HEARING OFFICER ZWEIGHAFT: -- Mendelson?

15 **RESUMED CROSS-EXAMINATION**

16 Q BY MR. MENDELSON: Quigley, were the -- were the people  
17 behind the glass, who I -- I think you assumed were NLRB  
18 personnel, were they all wearing masks?

19 MR. FRUMKIN: Objection. Relevance.

20 HEARING OFFICER ZWEIGHAFT: Sustained.

21 MR. MENDELSON: So -- so Madam Hearing Officer, there --  
22 there are several bases of relevance. And I'd already stated  
23 before, I don't want to be redundant, that to the extent  
24 something other than mail ballot voting was happening here,  
25 which was in-person voting, the Employer believes it is



1     pertinent that the COVID protocols hold for -- by Memorandum --  
2     GC Memorandum 20-10 and the Astira decision, A-S-T-I-R-A, were  
3     or not followed. But even more importantly, and this I did not  
4     state before, we have, I think, stated in our offer of proof --  
5     but maybe I'm mistaken, maybe it was in Ms. Doud's testimony  
6     that (b) (6), (b) (7)(C) said that the in-person voting that happened  
7     was done pursuant to quote, "Board protocol", unquote. So for  
8     us, it's important to understand what the Board protocol (b) (6), (b) (7)(C)  
9     was referring to. And by asking these questions, we're  
10    seeking to deal with one form of Board protocol, that is the  
11    COVID-safety protocols.

12           HEARING OFFICER ZWEIGHAFT: Okay. I don't think the  
13    Astira's decision applies to somebody coming into a Regional  
14    Office. I'm going to sustain the objection.

15           MR. MENDELSON: With -- with that, we have no further  
16    questions of Quigley at this time.

17           HEARING OFFICER ZWEIGHAFT: Okay. Thank you.

18           Mr. Frumkin and Ms. Schneider, how -- how long do you --  
19    do you need?

20           MR. FRUMKIN: I think I can begin now, and may request to  
21    smoke break. If I can do anything along the way, if that's  
22    okay with you?

23           HEARING OFFICER ZWEIGHAFT: Yep. That's okay with me.

24           All right. So Ms. Schneider, why don't we do that. And  
25    then, if you need a break afterwards, we can still do that,

1     okay?

2             MS. SCHNEIDER:   Yes.   Thank you.

3             HEARING OFFICER ZWEIGHAFT:   Okay.   Mr. Frumkin, go ahead.

4                             **CROSS-EXAMINATION**

5     Q     BY MR. FRUMKIN:   Good morning, Sage.   I have a few  
6     questions just to clarify and further unpack your previous  
7     testimony.   So first I want to ask, the individual who directed  
8     you -- once you went into the room where you were directed to  
9     go vote, were you -- you testified you were alone in that room?

10    A     Right.

11    Q     Okay.   And when you went into that room to vote, did you  
12    close the door behind you?

13    A     Yes.

14    Q     And for the entire time that you were voting, the door was  
15    closed?

16    A     Correct.

17    Q     Thank you.   So I want to ask you some questions about what  
18    you received from the Board agents, because I think I may be a  
19    little bit confused.   Did you receive anything in addition to a  
20    ballot?

21    A     I'm pretty sure I also got, like, an envelope to put the  
22    ballot, like, in, and gave it back to them.   But other than  
23    that, no, just, like, the ballot in the envelope.

24    Q     Were the -- were these documents within another ballot  
25    that you had to unpack?

1 A No.

2 Q And so then when you received -- when you filled out your  
3 ballot, you don't need to tell me how you filled it out, you  
4 put it in the envelope that you were provided?

5 A Correct. Yes.

6 Q Do you remember whether or not you signed that ballot?

7 A Like a signature?

8 Q Or -- it doesn't have -- well, signed or just wrote your  
9 name?

10 A I -- I don't honestly remember. I don't remember if I put  
11 my name or not.

12 Q Okay.

13 A Probably, but.

14 Q Okay. And do you remember whether or not you sealed that  
15 envelope?

16 A I don't remember.

17 Q Okay.

18 A I think so though, yeah, I do -- I think remember sealing  
19 it, actually.

20 Q Okay. So you sealed -- you sealed it, and then, delivered  
21 it back to the person behind the glass partition, correct?

22 A Correct.

23 Q Okay. And prior to your voting, when you went into the  
24 room alone, did the Board agents give you any special  
25 instructions about what to do?

1 A No.

2 Q Okay. And at any point in your text messages with any --  
3 or in your conversation at the office, did anyone speak with  
4 you about how you actually intended to vote on your ballot?

5 A No.

6 Q Okay. What was the extent of the conversation that you  
7 had with the Board agents while at the office?

8 A Not much at all, the -- pretty -- pretty just cut and --  
9 cut and clear, here's your stuff, go vote, give it back.  
10 Besides the driver's license thing, there was no other, like,  
11 conversation.

12 Q Okay.

13 MR. FRUMKIN: Let me check my notes one second. Please  
14 bear with me. Okay. I have no further questions at this time.  
15 Thank you.

16 HEARING OFFICER ZWEIGHAFT: Thank you.

17 Ms. Schneider, do you have any questions, or do you want a  
18 few minutes?

19 MS. SCHNEIDER: I do have some questions. I don't need  
20 time off the record. Thank you.

21 HEARING OFFICER ZWEIGHAFT: Thank you. Go ahead.

22 **CROSS-EXAMINATION**

23 Q BY MS. SCHNEIDER: Quigley, hi. I have just a few  
24 questions for you. When you -- and this question is intended  
25 to just make sure the hearing officer and everybody else

1 understands the physical presentation of the Regional Office  
2 that you went to. When you went to that office and you parked,  
3 you went inside the building. What -- is -- is that a -- the  
4 location of this Overland Park office, is it your understanding  
5 that it's the only office in the building that you went to, or  
6 are there other places of business there; do you know?

7 A I don't know. It kind of felt, like, it was a pretty,  
8 like, big building and a small office. So it definitely  
9 could've been a shared building. I don't remember, like,  
10 enough details to for sure say anything. But it kind of seemed  
11 like maybe it was a shared building, possibly.

12 Q Okay. Okay. Thank you. And when you arrived at the NLRB  
13 office there, was the Board agent waiting for you behind the  
14 glass, or did you have to ring a buzzer or otherwise announce  
15 your presence for them to come out?

16 A I didn't have to do anything like that. The office itself  
17 was really small, so I opened the door and we were face-to-face  
18 pretty much. They were there.

19 Q Okay. Okay. And when you say they were -- they were  
20 there and they were face-to-face, were they ever physically  
21 present in the same room with you, or were you always separated  
22 by a -- a glass wall?

23 A We were separated by a wall the whole time.

24 Q Okay. And you testified that you sealed -- or you -- you  
25 either think you sealed, or you did seal, your envelope with

1 the ballot inside of it. And did you do that while you were in  
2 the private room alone with the door closed, or after you left  
3 that room?

4 A I sealed it in the room before I left the room.

5 Q Okay. And then, what did you do with your sealed  
6 envelope?

7 A I gave it back to them under the glass box.

8 Q Okay. And it's your testimony that you can't remember  
9 with certainty whether you signed that sealed envelope?

10 A If it required my signature, I'm sure that I signed it. I  
11 don't personally remember exactly what, -- you -- you know, if  
12 it asked for a signature. I'm assuming it did though, so I  
13 probably did.

14 Q When you --

15 A I don't --

16 Q I'm sorry for cutting you off. Continue, please.

17 A No. I specifically remember, like, signing it or not  
18 signing it, but.

19 Q Okay. That -- that's fine. Thank you. When you gave  
20 your -- when you -- you said you slid the ballot back under the  
21 glass to return it to the Board agent, did they say anything to  
22 you about your -- I'm sorry, you slid the envelope with the  
23 ballot inside under there, did they say anything about your  
24 envelope?

25 A No.

1 Q Okay. And did anything else -- did you have any further  
2 conversation with the Board agent, or was that the end of your  
3 visit?

4 A That was the end of the visit.

5 Q Okay. Thank you.

6 MS. SCHNEIDER: I don't have any further questions.

7 HEARING OFFICER ZWEIGHAFT: Okay. I just have a couple of  
8 questions for you. So when you were -- so when you testified  
9 that you got a text from (b) (6), (b) (7) at the NLRB, the first text was  
10 from (b) (6), (b) (7) to you; is that correct?

11 THE WITNESS: That's correct.

12 HEARING OFFICER ZWEIGHAFT: Okay. And I -- I think you  
13 said so, I just want to clarify, had you called (b) (6), (b) (7) prior to  
14 that, or how did (b) (6), (b) (7) get your number to text you, if you know,  
15 or how -- was (b) (6), (b) (7) responding to something?

16 THE WITNESS: I don't fully remember if I called or my  
17 coworkers called, one of my coworkers called. I don't fully  
18 remember that. So (b) (6), (b) (7) either got my number, because I called  
19 or my coworkers called and said this person too, and gave them  
20 my number. But I don't fully remember one way or the other.

21 HEARING OFFICER ZWEIGHAFT: Okay. So you may have called  
22 (b) (6), (b) (7) off another number you don't check?

23 THE WITNESS: Right.

24 HEARING OFFICER ZWEIGHAFT: Okay. And -- and then, I just  
25 wanted to ask you again, so can you remember -- tell -- just

1 tell me as specifically as you can remember, when you arrived  
2 at the Regional Office and you came up to the glass to speak to  
3 the Board agent, as specifically as you can remember, what did  
4 that person hand you to go into -- before you went in the room  
5 to vote?

6 THE WITNESS: To the best of my knowledge, they gave me  
7 the ballot and the envelope. I don't remember if the ballot  
8 was already in the envelope or not. I don't remember that.  
9 But those are the only two things I remember receiving.

10 HEARING OFFICER ZWEIGHAFT: Okay.

11 THE WITNESS: Yeah.

12 HEARING OFFICER ZWEIGHAFT: Okay. Thank you. Those are  
13 all the questions that I have.

14 Mr. Mendelson, if you have any redirect, based on any of  
15 that, you know, including Mr. Frumkin and Ms. Schneider's  
16 questions, you can go ahead.

17 MR. MENDELSON: Just give me a moment.

18 HEARING OFFICER ZWEIGHAFT: Sure.

19 MR. MENDELSON: You know, Madam Hearing Officer, if you  
20 could give me a minute, and let me -- let me chat with my  
21 colleagues.

22 HEARING OFFICER ZWEIGHAFT: Okay. So why don't we take --  
23 why don't we take five minutes. Okay, off the record.

24 (Off the record at 12:37 p.m.)

25 MR. MENDELSON: No further questions of this witness.



1 HEARING OFFICER ZWEIGHAFT: Okay. And here is -- okay.  
2 Okay. I'm actually not sure if Quigley's back.

3 Okay. So Quigley, the Employer had indicated that they  
4 don't have any further questions for you. I want to thank you  
5 for your participation today. I really appreciate your time  
6 and your testimony. Thank you very much.

7 THE WITNESS: Yeah, of course.

8 HEARING OFFICER ZWEIGHAFT: Okay. Take care.

9 THE WITNESS: Yep. Have a good one.

10 HEARING OFFICER ZWEIGHAFT: You too.

11 All right. Calvin Culey is in the waiting room.

12 MR. MENDELSON: So we wish -- we wish to call him at this  
13 time.

14 HEARING OFFICER ZWEIGHAFT: Okay. Let me admit him.

15 UNIDENTIFIED SPEAKER: Just so everybody knows, I believe  
16 Calvin also uses they/them pronouns.

17 HEARING OFFICER ZWEIGHAFT: Okay. Thank you for that. I  
18 appreciate it.

19 So I'm Rachel Zweighaft. I'm the hearing officer. Are  
20 you able to hear me? Okay. Not yet.

21 THE WITNESS: Okay. I should be able to hear now.

22 HEARING OFFICER ZWEIGHAFT: Okay. I'm Rachel Zweighaft.  
23 I'm the hearing officer in this case. Thank you for  
24 participating this morning. The first thing I'm going to do is  
25 swear you in. So I'm going to ask you to raise your right

1 hand.

2 Whereupon,

3 CALVIN CULEY

4 having been duly sworn, was called as a witness herein and was  
5 examined and testified, telephonically as follows:

6 HEARING OFFICER ZWEIGHAFT: Thank you. So if you have any  
7 technical issues, if you can't hear us or -- yes, let me know.  
8 If you don't understand a question, please say so, so we can  
9 restate it for you. I also want to let you know, you're  
10 probably going to be asked some questions about some  
11 communications that you might've had with the Regional Office.  
12 I just want to be clear that we do not to know how you voted in  
13 this election. I don't want to know anything about your  
14 feelings about the Union. We're just looking for the mechanics  
15 of the election itself. So I want that to be clear.

16 And I'm going to ask you to state and spell your name for  
17 the record. And also -- can you also tell us how you prefer to  
18 be addressed?

19 THE WITNESS: Okay. Calvin Culey, C-A-L-V-I-N C-U-L-E-Y.  
20 And that's fine, he/him is fine.

21 HEARING OFFICER ZWEIGHAFT: I'm sorry?

22 THE WITNESS: Any pronouns are fine.

23 HEARING OFFICER ZWEIGHAFT: Okay. All right. Thank you.  
24 Mr. Mendelson, you may go ahead.

25 MR. MENDELSON: Thank you.



1           Ms. Schneider, any witness statements that bear of the  
2 subject matter at hand?

3           MS. SCHNEIDER: There are none.

4           MR. MENDELSON: Thank you.

5                                   **DIRECT EXAMINATION**

6       Q     BY MR. MENDELSON: Good afternoon, Calvin. How are you?

7       A     Good.

8       Q     Thank you. Good to hear. Am I correct that you are no  
9 longer employed by Starbucks?

10      A     That is correct.

11      Q     And do you remember approximately when you cast a ballot,  
12 or voted a ballot, in connection with The Container Store  
13 election?

14      A     It would've been around mid-day the day before the  
15 election. I don't remember what the -- date of election was.

16      Q     Okay. In terms of the month, do you have a recollection  
17 of approximate when that was?

18      A     April.

19      Q     Yes. Okay. First week of April, does that sound right?

20      A     Yeah.

21      Q     Okay. And I'm interested in understanding, to start  
22 with --

23           MR. MENDELSON: Strike that.

24      Q     BY MR. MENDELSON: What did you understand the mechanism  
25 to vote was supposed to be?

1 A You get your ballot in the mail. You don't tell anyone  
2 what you vote for. You write all your stuff down. Then, you  
3 mail it out to the NLRB office. Or you could go vote in  
4 person.

5 Q Okay. And with respect to the point you just made about  
6 going to vote in person, how did you come to understand that  
7 being a way to vote?

8 MR. FRUMKIN: Objection to relevance. This is not --

9 HEARING OFFICER ZWEIGHAFT: Yeah. I'll allow that.  
10 Overruled.

11 MR. FRUMKIN: Okay.

12 HEARING OFFICER ZWEIGHAFT: You can answer.

13 A I think it was sent to me by, like, (b) (6), (b) (7)(C) or someone. I  
14 don't remember who it were, like, exactly what. I just know  
15 that -- I was, like, this is the thing that can happen in case  
16 you don't send your ballot in in time.

17 Q BY MR. MENDELSON: Okay. And just for the record, who's  
18 (b) (6), (b) (7)(C)

19 A (b) (6), (b) (7)(C) is -- I think (b) (6), (b) (7)(C) works with the Union. I don't  
20 actually know (b) (6), (b) (7)(C) position.

21 Q Okay.

22 A But (b) (6), (b) (7)(C) -- yeah.

23 Q And am I correct you spell (b) (6), (b) (7)(C) name, (b) (6), (b) (7)(C)? That's (b) (6), (b) (7)(C)  
24 first name?

25 A (b) (6), (b) (7)(C), yeah.

1 Q Do you know how to spell (b) (6), (b) (7)(C) last name?

2 A I don't even know what it is.

3 Q Okay. And do you remember approximately when (b) (6), (b) (7)(C) told  
4 you that you could vote in person?

5 A No, I didn't --

6 MR. FRUMKIN: Objection.

7 HEARING OFFICER ZWEIGHAFT: Okay.

8 Q BY MR. MENDELSON: I want to approach it this way to try  
9 to refresh you. Looking backward from the date that you voted,  
10 how much longer before that do you think (b) (6), (b) (7)(C) told you that?

11 A I really --

12 MR. FRUMKIN: Objection. Relevance. This is first off  
13 protected. And second off, we're here to inquire about the  
14 actual method of voting.

15 HEARING OFFICER ZWEIGHAFT: Okay. I'm going to allow  
16 this. It's overruled.

17 A I really have no idea. It was, like, four months ago at  
18 this point.

19 Q BY MR. MENDELSON: Okay. When (b) (6), (b) (7)(C) told you you could  
20 vote in person, who if anyone else was present?

21 MR. MENDELSON: Objection. Relevance. And this intrudes  
22 on Section 7 activity.

23 HEARING OFFICER ZWEIGHAFT: I'll allow his question.

24 A I don't know. And I'm not even positive (b) (6), (b) (7)(C) was the one  
25 who told me this. I just remember it was a thing I know. I do

1 not remember how it was told.

2 Q BY MR. MENDELSON: Okay. And how did you cast your vote,  
3 sir?

4 A I wrote all this stuff down at home, sealed the envelope.  
5 And then, I drove to the NLRB office and placed it on the desk,  
6 because no one else was there.

7 Q Okay. So let's explore that. First of all, which --  
8 where was the NLRB office located?

9 A It's off, like, 87th Street Parkway.

10 Q Is that in Overland Park?

11 A Yeah.

12 Q Okay. And let's just explore this. You -- you drove, so  
13 you parked your car in a lot around that building?

14 A Um-hum.

15 Q You have to answer audibly yes or no.

16 A Yes.

17 Q Okay. And tell me then -- I mean, it sounds very mundane,  
18 but you know, what happened? You got out of your car. You  
19 went into the building. Then, tell us what happened.

20 A There was a sign that says "Mailperson, just put mail on  
21 the desk inside". And I was, like, okay. So I -- I walked in,  
22 and then, I put the letter on the desk.

23 Q Okay. And was that desk behind a glass partition?

24 A I think it -- I think so.

25 Q And was no one else present?

- 1 A Correct.
- 2 Q But was the front door opened?
- 3 A Yeah, it was.
- 4 Q I don't mean it was open opened, it was --
- 5 A Oh, no. I mean, it was unlocked, yeah.
- 6 Q Okay. And where you put the -- well, again, I think you
- 7 just said you put the ballot into an envelope; is that what
- 8 you --
- 9 A Um-hum.
- 10 Q -- told us?
- 11 A Um-hum.
- 12 Q Yes?
- 13 A Yes.
- 14 Q Okay. Did you seek to see if anyone else was in the NLRB
- 15 office before you left the ballot on the desk?
- 16 A No, I -- I didn't.
- 17 Q Okay. And approximately -- you may have said this, so
- 18 forgive me, I don't mean the date, when did you vote, both the
- 19 day of the week perhaps you remember and what time?
- 20 A Mid-ish day. It probably would've been -- been between,
- 21 like, 10 and 4, because I was doing laundry at my dad's.
- 22 Q Okay. So 10 -- 10 a.m. and 4 p.m., just to be clear,
- 23 right?
- 24 A Yes. But I'm not one hundred percent.
- 25 Q Okay. And I think you said this before, forgive me, I

1 just don't remember, had an impression of the number of days it  
2 would give you to drop the ballot at the NLRB office before the  
3 deadline to do so. Did you say something about that?

4 MR. FRUMKIN: Objection. It is asked and answered.

5 HEARING OFFICER ZWEIGHAFT: Okay. And I think he's trying  
6 to clarify. I'll allow it.

7 A It was the day before the actual vote. I don't remember  
8 when the deadline was.

9 Q BY MR. MENDELSON: Okay. Give me just one moment, because  
10 I don't want to ask you the same question, so I'm going to an  
11 outline to make sure I don't ask you redundant questions. So  
12 there'll be some silence for a moment.

13 Did -- did you bring anyone else's ballot, whether it an  
14 envelope or not, to the NLRB office?

15 A No, just mine.

16 Q Did you have any kind of communication with anyone at the  
17 NLRB before you brought the ballot to the NLRB office?

18 A No, I didn't.

19 Q Did you have any kind of communication with anyone at the  
20 NLRB after you left the ballot at its office?

21 MR. FRUMKIN: Objection.

22 A No, I didn't.

23 MR. FRUMKIN: Relevance.

24 HEARING OFFICER ZWEIGHAFT: I -- yeah. He answered, but  
25 I'll allow -- I'll allow the answer.



1 A No, I didn't.

2 Q BY MR. MENDELSON: And while you told me that you didn't  
3 search to see if anyone was present in the NLRB office when you  
4 were there? Apart from searching, did you have any attempted  
5 communication with anyone at the NLRB, other than searching  
6 physically for someone while you were at the NLRB office?

7 A No.

8 Q Did you communicate to any of your coworkers at the store  
9 that you were going to the NLRB to drop your ballot off there?

10 MR. FRUMKIN: I object on the basis of relevance. This  
11 doesn't impact how -- how the outcome of the election. It also  
12 intrudes on Section 7 activity.

13 HEARING OFFICER ZWEIGHAFT: Sustained now.

14 Q BY MR. MENDELSON: Did you communicate to anyone from the  
15 Union that you were intending to go to the NLRB office to cast  
16 your ballot?

17 MR. FRUMKIN: I have the same objection.

18 HEARING OFFICER ZWEIGHAFT: Yes, sustained.

19 Q BY MR. MENDELSON: Did any of your coworkers communicate  
20 to you that they intended to go to the NLRB office to cast  
21 their ballot?

22 MR. FRUMKIN: I have the same objection.

23 HEARING OFFICER ZWEIGHAFT: Okay. I'm going to allow a  
24 little leeway on this question. I'll allow that answer.

25 A Can you ask the question again?



1 Q BY MR. MENDELSON: Yes. Did any of your coworkers  
2 communicate to you that they intended to go to the NLRB office  
3 to cast their ballot in person?

4 A I -- I don't remember. I don't think so. But I don't  
5 want to, like, perjure myself.

6 Q I understand. I'll be more particularized. Did (b) (6), (b) (7)(C)  
7 indicate to you that (b) (6), (b) (7)(C) intended to cast (b) (6), (b) (7)(C) ballot at  
8 the --

9 MR. FRUMKIN: I -- I object on relevance, and Section 7.  
10 The fact that we're now talking about two employees provides a  
11 particularized aspect where this is an intrusion on both of  
12 their Section 7 rights.

13 MR. MENDELSON: So -- so I haven't -- I haven't detained  
14 us by arguing back, but I will here. I understand the scope of  
15 Section 7. I understand it's not absolute. And I think in a  
16 proceeding designed to ascertain whether there was misconduct  
17 in the way the election was conducted, it's appropriate to ask  
18 questions of the kind that I've asked.

19 MR. FRUMKIN: If I may respond. This doesn't go to  
20 whether or not (b) (6), (b) (7)(C) would have actually voted in person.  
21 This is all hearsay, and therefore it -- it's also irrelevant  
22 to the inquiry of whether or not (b) (6), (b) (7)(C) actually did vote that --  
23 in-person or not.

24 HEARING OFFICER ZWEIGHAFT: Yeah, I agree that it's not  
25 very probative. I am going to allow the answer, but I, you

1 know, I'll allow the leeway although I do agree it's not  
2 terribly probative. But if you remember, you can answer.

3 THE WITNESS: I don't remember.

4 MR. MENDELSON: If I could have 2 minutes to talk to my  
5 colleagues?

6 HEARING OFFICER ZWEIGHAFT: Yes. Off the record. So  
7 while he's taking a quick break.

8 (Off the record at 12:56 p.m.)

9 Q BY MR. MENDELSON: Did Michael Vestigo indicate to you or  
10 to others, who then related it to you, that he was going to  
11 cast a ballot by in-person, showing up at the NLRB while  
12 casting -- casting it there?

13 MR. FRUMKIN: Objection to relevance, hearsay, and  
14 intrusion on Section 7 rights. I think the relevance is  
15 particularly important here because Michael Vestigo's ballot is  
16 not, as far as I'm concerned, or as far as I'm aware, being  
17 challenged in the offer. So this is a fishing expedition.

18 MR. MENDELSON: It's not -- it's not a fishing expedition.  
19 As we've indicated, we had no idea the extent to which voting  
20 in person went. And we think it's an appropriate question to  
21 determine, if possible, what the circumstances surrounding  
22 Vestigo were.

23 HEARING OFFICER ZWEIGHAFT: And I again, agree that it's  
24 of limited probative value, but I'll allow the answer if it's  
25 the witness remembers.

1       A       Repeating what I said earlier, I do not have any memory  
2       who or who didn't talk to me about voting in person.

3               MR. MENDELSON: Thank you. No further questions of this  
4       witness at this time.

5               HEARING OFFICER ZWEIGHAFT: Okay. Mr. Frumkin and Ms.  
6       Schneider do you -- Mr. Frumkin, do you need a minute or are  
7       you ready to go?

8               MR. FRUMKIN: Yes, please. I'd like a minute.

9               HEARING OFFICER ZWEIGHAFT: Okay.

10              MR. FRUMKIN: Call it two, just in case.

11              HEARING OFFICER ZWEIGHAFT: Oh, yeah. Well, we'll take  
12       five minutes. And Ms. Schneider, will that be good for you,  
13       too, do you think?

14              MS. SCHNEIDER: Yes, that'll be sufficient. Thank you.

15              HEARING OFFICER ZWEIGHAFT: Okay, Calvin, we're going to  
16       take another quick break for five minutes. So you can move  
17       around or whatever. Come back in 5 minutes. Please don't talk  
18       to anybody. Okay. Off the record.

19       (Off the record at 1:01 p.m.)

20              UNIDENTIFIED SPEAKER: Here we are.

21              HEARING OFFICER ZWEIGHAFT: Okay, Mr. Frumkin?

22              MR. FRUMKIN: No questions. Thank you.

23              HEARING OFFICER ZWEIGHAFT: Okay. Ms. Schneider do you  
24       have questions?

25              MS. SCHNEIDER: I do just have a couple of questions.

1 HEARING OFFICER ZWEIGHAFT: Okay. Go ahead.

2 **CROSS-EXAMINATION**

3 Q BY MS. SCHNEIDER: Calvin, hello. I just have a couple of  
4 questions for you. You testified that you did not personally  
5 have communications with the NLRB before or after dropping off  
6 your ballot into the office.

7 A Yeah.

8 Q Were arrangements made for you by anyone else for you to  
9 drop off your ballot in person?

10 A No. No arrangements were made for me.

11 Q Do you recall whether you signed your sealed ballot  
12 envelope before dropping it off?

13 A I assume I would have, but I don't remember.

14 Q Okay. And you testified that you went -- you dropped your  
15 ballot by sliding it. Can you explain what you did? You  
16 walked -- you got there, you walked into the building, you  
17 found the NLRB suite, and then what happened? Did you have to  
18 open a door to get into a reception area? Explain to us what  
19 you did.

20 A Yeah, I open the door to the reception area. And then  
21 there was like, there's just a desk. And I put on the desk.  
22 And I think there was like glass on the desk. And I don't know  
23 if I could get to other areas. I don't think I could, but it  
24 was like most of the lights were off. So it's like, Oh, no  
25 one's here.

1 Q Okay. And the desk that you're describing was that in the  
2 room where you were? Or was it behind the glass?

3 A Behind the glass.

4 Q And you're testifying that the lights were off behind the  
5 glass?

6 A I'm like 80 percent sure. 85 percent sure. I'm pretty  
7 sure.

8 Q And this happened midday, you said maybe between 10 a.m.  
9 and 4 p.m.?

10 A Uh-huh.

11 Q The day before you understood the ballots were to be  
12 counted?

13 A Uh-huh. Yes.

14 MS. SCHNEIDER: I don't have any further questions.

15 HEARING OFFICER ZWEIGHAFT: And Ms. Schneider has covered  
16 any questions that I would have asked. Mr. Mendelson, any  
17 redirect just based on?

18 MR. MENDELSON: Can I have one minute?

19 HEARING OFFICER ZWEIGHAFT: Yes. Okay. I think we're  
20 still on the record.

21 MR. MENDELSON: No -- no further questions for this  
22 witness at this time.

23 HEARING OFFICER ZWEIGHAFT: Okay. Calvin, thank you for  
24 your participation this morning. Again, I appreciate your  
25 appearing, and I appreciate your testimony. Thank you for

1 taking the time.

2 THE WITNESS: Thanks.

3 HEARING OFFICER ZWEIGHAFT: Okay. I don't see anybody  
4 else in the waiting room. Is the Employer expecting an  
5 additional witness today?

6 MR. MENDELSON: We did not hear from (b) (6), (b) (7)(C) We had  
7 contacted (b) (6), (b) (7)(C) as the others. And we only heard from  
8 Calvin. But as you know, Quigley and Ms. Claypool are here.

9 HEARING OFFICER ZWEIGHAFT: Right.

10 MR. MENDELSON: So at this point, we -- we don't have the  
11 ability to put (b) (6), (b) (7)(C) on. I think, you know, we'll need to  
12 talk among ourselves as to what options -- what option we wish  
13 to pursue.

14 HEARING OFFICER ZWEIGHAFT: Okay. So do you have any  
15 additional witnesses other than (b) (6), (b) (7)(C)

16 MR. MENDELSON: Not -- not today. I think it's fair to  
17 say, unless someone corrects me, we remain in abeyance waiting  
18 on the Regional Director with respect to the whistleblower and  
19 General Counsel with respect to Region 14 staff.

20 HEARING OFFICER ZWEIGHAFT: Okay. So there is a pending  
21 request on those, that's not been ruled on yet. Is that -- am  
22 I correct on that?

23 MR. MENDELSON: Yes.

24 HEARING OFFICER ZWEIGHAFT: Okay. Now. All right. And  
25 so that at this time, putting (b) (6), (b) (7)(C) aside that would be

1 the remainder of your witnesses? Is that correct or?

2 MR. MENDELSON: I think that's fair. I suppose if some  
3 witness came up and said something constant about their  
4 understanding, that would be different. But yes, I think we  
5 are waiting (b) (6), (b) (7)(C) and the Region 14 staff, and the  
6 whistleblower.

7 HEARING OFFICER ZWEIGHAFT: That's what you would  
8 anticipate as of now, I understand.

9 MR. MENDELSON: Yes. Yes. Although my colleagues remind  
10 me that based upon the record to date, we also believe that we  
11 need to ask you for a subpoena in an effort to question Michael  
12 Vestigo.

13 HEARING OFFICER ZWEIGHAFT: Okay. You can make a -- you  
14 can send me a subpoena request.

15 MR. MENDELSON: Thank you.

16 HEARING OFFICER ZWEIGHAFT: Okay. Okay. So it sounds  
17 like -- so we've gone as far as we're going to go with  
18 testimony for today? Is that everybody's understanding?

19 MR. MENDELSON: Yes.

20 HEARING OFFICER ZWEIGHAFT: Okay. Let's revisit whatever  
21 we need to revisit in terms of documents. I'll start with the  
22 Employer. Where -- where are we in terms of other things that  
23 you would like to offer?

24 MR. MENDELSON: Betsy?

25 MS. CARTER: So we -- we still have outstanding -- and



1 we've marked these exhibits if it helps to have them come in,  
2 so. The subpoena duces tecum E-1-1G9QHNT to the custodian of  
3 records at Region 14. And four subpoena ad testificandums  
4 for -- one for (b) (6), (b) (7)(C) subpoena (b) (6), (b) (7)(C) . Subpoena of  
5 (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) . Subpoena of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
6 (b) (6), (b) (7)(C) . And the subpoena of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)  
7 (b) (6), (b) (7)(C) . And then not by subpoena, but by a written request.  
8 Yeah. That's been marked as, I believe it's Employer Exhibit  
9 24. Let me double-check. No, sorry. It's Employer Exhibit  
10 35. A letter dated August 15th, 2022, regarding the request  
11 for the whistleblower testimony.

12 MR. MENDELSON: And so Betsy, on the first five things you  
13 read, Employer Exhibits 1 through 5.

14 MS. CARTER: Yes.

15 MR. MENDELSON: And then you mentioned Employer Exhibit  
16 35. So I think our objective is to move these into evidence.

17 MS. CARTER: Yes. And I think -- so we have other letters  
18 regarding those subpoenas that we've marked as exhibits as  
19 well. Employer Exhibits 23, 24, 25, 26, 35, 36, 37, 38 and 39  
20 are correspondence, both to Region 29, to the General Counsel,  
21 and from Region 29 and the General Counsel. So we can go  
22 through each of those, or I can circulate. Do you want me to  
23 separate them?

24 HEARING OFFICER ZWEIGHAFT: Oh, is that what the court  
25 reporter asked?

1 THE COURT REPORTER: That is easier for the court  
2 reporter, yes.

3 MS. CARTER: Okay.

4 MR. MENDELSON: Yeah. Yeah, yes. PDF. PDF file

5 MS. CARTER: Okay.

6 HEARING OFFICER ZWEIGHAFT: All right. So I think some of  
7 these have already been circulated in a larger file. So I  
8 think -- I don't know if, Ms. Schneider, if you've had a chance  
9 to review what's been pre-marked already? If you have a -- I'm  
10 asking you first, since we go to the -- to the information  
11 regarding the Region, if you have a position on it?

12 MS. SCHNEIDER: Betsy -- I'm sorry. Ms. Carter, are we on  
13 the record still?

14 HEARING OFFICER ZWEIGHAFT: Yeah, we are on the record.

15 MS. SCHNEIDER: Okay. Okay. Thank you. Ms. Carter, what  
16 was the document that you referenced after the five subpoenas  
17 that you first listed, a moment ago?

18 MS. CARTER: A written request, by letter, to the Regional  
19 Director of 29 for the voluntary testimony of the  
20 whistleblower.

21 MS. SCHNEIDER: Okay. Thank you. And did that have a  
22 number associated with it?

23 MS. CARTER: It's been marked as Employer's Exhibit 35.

24 MS. SCHNEIDER: Okay.

25 MS. CARTER: And then it's dated August 15th.

1 MS. SCHNEIDER: Thank you. I'm familiar with the letter.  
2 I just didn't remember how you referenced it.

3 MS. CARTER: Yeah.

4 MS. SCHNEIDER: Okay. Madam Hearing Officer, to answer  
5 your question. Yes, I was able to I was able to -- I was able  
6 to review the documents when they were initially circulated. I  
7 don't know that I have seen -- well, the initial circulation  
8 was 1 through 35; is that right? But 23 through 26, are those  
9 the more recent documents, the communications between Region 29  
10 and the Employer and the General Counsel of the Employer? Or  
11 are those 36 to 39?

12 MS. CARTER: So I can read out a brief description of  
13 each. So we have for Employer's Exhibit 23. It's a letter to  
14 General Counsel dated June 28, 2022. Employer's Exhibit 27, a  
15 letter to Region 29's Regional Director, dated August 5th,  
16 2022. Employer's Exhibit 25 is a letter from the General  
17 Counsel dated August 9th, 2022. Employer's 26 is a letter to  
18 General Counsel and Chairman McFerran dated August 15th, 2022.  
19 Employer's Exhibit 35. It's a letter to the Regional Director  
20 of Region 29, dated August 15th, 2022. Employer's Exhibit 36  
21 is a letter to the General Counsel, dated August 17th, 2022.  
22 Employer's Exhibit 37 is a letter from the General Counsel  
23 dated August 18th, 2022. Employer's Exhibit 38 is a letter to  
24 the General Counsel dated August 19th, 2022. And Employer's  
25 Exhibit 39 is a letter from the Regional Director of 29, dated

1 August 16, 2022.

2 And I can recirculate all of these, too. I think some of  
3 them came in during the hearing, so they may not be in the  
4 first set of exhibits sent on the first day of the hearing. So  
5 I'll double-check and circulate all of these.

6 MS. SCHNEIDER: Okay. I would appreciate seeing them  
7 again. Or those that we haven't seen before, seeing them an  
8 initial time, and then seeing the others again, just to review  
9 that they're complete. I'm familiar with the documents.  
10 That's not the issue. You know, just so we can make sure  
11 they're complete copies of everything. But I don't anticipate,  
12 you know, an objection, just an opportunity to review.

13 HEARING OFFICER ZWEIGHAFT: Okay. All right. So that  
14 answers my question.

15 MS. SCHNEIDER: Okay. Thank you.

16 HEARING OFFICER ZWEIGHAFT: Thank you. Okay. And then --  
17 so this all goes to the petition to revoke, regarded to the  
18 Region's petition to revoke. Are there any, at this point,  
19 having had the testimony, are there any other petitions that  
20 you are seeking to enter exhibits on? I think at this point  
21 you've had the testimony that I've allowed. Except, you know,  
22 for (b) (6), (b) (7)(C) that's a whole separate issue.

23 MS. CARTER: Yeah, I believe so. The only other subpoenas  
24 is the one you ruled on initially for (b) (6), (b) (7)(C)

25 HEARING OFFICER ZWEIGHAFT: So are you entering documents

1 with regard to that?

2 MR. MENDELSON: Yeah, Betsy, we want to do that. Yeah.

3 MS. CARTER: Okay. Yeah. So that's been marked as  
4 Employer's Exhibit 21. A subpoena ad testificandum of (b) (6), (b) (7)(C)  
5 [REDACTED] subpoena number, (b) (6), (b) (7)(C) [REDACTED] And we also have marked  
6 as exhibits the of Region's petition to revoke, and this -- the  
7 brief filed in opposition to the Region's petition to revoke.  
8 We have Employer's Exhibit 32 is the Region 14 petition to  
9 revoke, the subpoena duces tecum, and the four ad testificandum  
10 subpoenas, dated August 10th, 2022. And Employer's Exhibit 33  
11 is the Starbucks brief in opposition to the Region 14 petition  
12 to revoke dated August 15, 2022. So we can enter those as  
13 exhibits as well.

14 HEARING OFFICER ZWEIGHAFT: Okay. It sounds like we need  
15 some time to circulate those, and let everybody just take a  
16 quick look at them before we -- before we enter them. I know  
17 people have seen them a couple of times, but I feel like it's  
18 been at different stages. And we've been talking about a lot  
19 of different documents. So why don't we -- and I don't think  
20 the court reporter has them anyway, so why don't we circulate  
21 them.

22 We're -- we'll take a break to circulate them. We'll give  
23 everybody a chance to review everything, and we can come back  
24 on the record and deal with that. Are there -- what about the  
25 redactions? Is that still pending as well? I think we needed

1 redacted copies of certain exhibits.

2           You know, specifically Employer's 63, 65, 66 and 70, I  
3 believe. Also we needed a redacted copy, and I don't -- I  
4 think we were -- I think those got -- correct me if I'm wrong.  
5 I believe those got circulated, but we were going to give the  
6 parties a chance to just review the redactions with the key.  
7 So I don't know if everybody has done that, or if you did it so  
8 long ago, you don't remember. But I think we need -- those  
9 were still outstanding, as well. Is that -- is that consistent  
10 with what everybody remembers?

11           MS. CARTER: I did circulate them Friday after we  
12 adjourned, with the other exhibits that were separated out for  
13 the court reporter. If it's helpful I can recirculate those  
14 once again.

15           HEARING OFFICER ZWEIGHAFT: Does anybody need those again?

16           THE COURT REPORTER: No. I don't. I have them already,  
17 so.

18           HEARING OFFICER ZWEIGHAFT: You have them? Okay.

19           THE COURT REPORTER: I just need the ones that she just  
20 put in today. In the pdf file.

21           MS. SCHNEIDER: I don't need the redacted ones again. And  
22 I actually did have an opportunity to review against the key,  
23 and with the correction that was made to Exhibit 70, I did not  
24 see any further issues. So thank you for that correction. I  
25 don't -- I'll leave it to others to say if they saw anything,

1 but I did not.

2 HEARING OFFICER ZWEIGHAFT: Okay. Mr. Frumkin and Mr.  
3 Iglitzin, do you have a position on -- right now we're just  
4 talking about the redactions. 63, 64, 65, 66 and 70 for the  
5 Employer's Exhibit?

6 MR. FRUMKIN: We have no issue with that.

7 HEARING OFFICER ZWEIGHAFT: Okay. So at this point, I'm  
8 going to receive Employer's Exhibits 63, 64, 65, 66. And  
9 Employer's Exhibit 70 as redacted.

10 **(Employer Exhibit Numbers 63, 64, 65, 66 and 70 Received into**  
11 **Evidence)**

12 HEARING OFFICER ZWEIGHAFT: The court reporter has those.  
13 So we're set. So those are received in the record now. All  
14 right. So that the only issue, the only document issue left is  
15 the subpoena -- those relating to the subpoenas. All right.  
16 Let's go off the record. Okay.

17 (Off the record at 1:27 p.m.)

18 HEARING OFFICER ZWEIGHAFT: All Right. Back on the  
19 record.

20 THE COURT REPORTER: We're on.

21 HEARING OFFICER ZWEIGHAFT: All right. Thank you.

22 Go ahead, Ms. Carter.

23 MS. CARTER: The Employer moves to admit Employer's  
24 Exhibit 1, 2, 3, 4, 5, Employer's Exhibit 21, Employer's  
25 Exhibit 23, Employer's Exhibit 24, Employer's Exhibit 25,

1 Employer's Exhibit 26, Employer's Exhibit 32, Employer's  
2 Exhibit 33, Employer's Exhibit 35, Employer's Exhibit 36,  
3 Employer's Exhibit 37, Employer's Exhibit 38, and Employer's  
4 Exhibit 39.

5 HEARING OFFICER ZWEIGHAFT: Okay. And I want to clarify  
6 that all of these exhibits were circulated to all the parties  
7 while we were on break. And I know the parties have had a  
8 chance to review them. We did have some clarification on one  
9 of the exhibits off the record, and I think that -- it -- we  
10 regard to, I think, Employer's Exhibit 1, and I believe that's  
11 been clarified now.

12 And Ms. Carter, can you just let me know? I know there  
13 have been a couple of corrected copies of Exhibit 1. Just so  
14 that it's clear for the court reporter, which -- which -- how  
15 is Employer's Exhibit 1 marked right now for identification?

16 MS. CARTER: The PDF is marked as second corrected --  
17 Employer's Exhibit -- "Second Corrected-Starbucks 14 RC  
18 289926". Employer's Exhibit 1.

19 HEARING OFFICER ZWEIGHAFT: Okay, so that's the one that's  
20 being offered at this moment?

21 MS. CARTER: Correct.

22 HEARING OFFICER ZWEIGHAFT: Okay. Ms. Schneider, I think  
23 a lot of these have to do with the Regional documents, so I'll  
24 let you make any comments that you want on the record about  
25 them or any objections.



1 MS. SCHNEIDER: Thank you. I don't have any objections to  
2 the receipt of these exhibits. Not all of them pertain to the  
3 Region -- you know, the subpoenas issued to the Region, but  
4 many of them do.

5 HEARING OFFICER ZWEIGHAFT: I didn't mean it exclusively.  
6 Thank you.

7 MS. SCHNEIDER: That's okay.

8 HEARING OFFICER ZWEIGHAFT: Yeah. And for the Union, I  
9 don't know who's -- it looks like Mr. Frumkin is responding.  
10 Any objection to any of these exhibits?

11 MR. FRUMKIN: We have no objections, thank you.

12 HEARING OFFICER ZWEIGHAFT: Okay. So -- so I will receive  
13 these, and I'm going to read them again. Employer's Exhibit 1,  
14 2, 3, 4, 5, 21, 23, 24, 25, 26, 32, 33, 35, 36, 37, 38, and 39  
15 are received.

16 **(Employer Exhibit Numbers 1 through 5, 21, 23 through 26, 32,**  
17 **33, and 35 through 39 Received into Evidence)**

18 HEARING OFFICER ZWEIGHAFT: I have a quick question, just  
19 as a point of clarification. The Employer's letter to -- to  
20 the GC and the Regional Director for Region 29, that's now been  
21 received as Employer Exhibit 38. That's the 8/19 letter dated  
22 August 19th. Is that the letter that's pending for the -- that  
23 the Employer thinks is pending, in terms of its request for  
24 documents or testimony from the file?

25 MR. MENDELSON: What was the nu -- what was the number

1 again?

2 HEARING OFFICER ZWEIGHAFT: 38.

3 MR. MENDELSON: That -- that is the most recent letter.  
4 That's correct.

5 HEARING OFFICER ZWEIGHAFT: Okay. And so there hasn't --  
6 that's pending, and there hasn't been a response to that  
7 letter?

8 MS. DOUD: Does that --

9 MR. MENDELSON: That -- that, I think, is correct. Kim or  
10 Betsy, can you confirm that I'm right about that? That's the  
11 Fri -- that's the letter from Friday.

12 MS. DOUD: I'm double-checking. Okay. That's correct.

13 HEARING OFFICER ZWEIGHAFT: Okay. Thank you. I just  
14 wanted to clarify that. Does the Employer have any other  
15 documents that it wants to address at this time?

16 MR. MENDELSON: I -- I do not think, at this time, that we  
17 have anything further.

18 MS. CARTER: There are two other exhibits that I  
19 circulated, Exhibits 59 and Exhibit 60 for the Employer.

20 HEARING OFFICER ZWEIGHAFT: Okay.

21 MR. MENDELSON: I stand corrected.

22 MS. CARTER: Exhibit 59 is a Fox Business article and  
23 Employer's Exhibit 60 is a Law360 article.

24 MR. MENDELSON: One -- one of those two includes remarks  
25 that were made by the NLRB spokesperson that were referenced in

1 colloquies. I'm fairly confident that -- at least things  
2 earlier to -- that Ms. Carter mentioned that -- that -- that's  
3 our principal purpose for seeking its admission. I'm not  
4 recalling the other one at the moment.

5 MS. CARTER: And -- and the other -- the one's a Law360  
6 article that has remarks by Union Counsel Gabe Frumkin about  
7 the matter as well.

8 HEARING OFFICER ZWEIGHAFT: Okay. Ms. Schneider or Mr.  
9 Frumkin, do you wish to be heard on either of these?

10 MR. FRUMKIN: Yeah. I object to -- to -- for one, again,  
11 this is irrelevant to the actual objections. I'm -- I'm  
12 looking at them as quickly as I can, but it appears that these  
13 are articles that were published in the last week or so and  
14 therefore could have no bearing on the outcome of the election.  
15 Second, to the extent that they're being offered for  
16 communications by Kayla Blado or anyone else, that's hearsay  
17 and should not be admitted for those two reasons.

18 HEARING OFFICER ZWEIGHAFT: Ms. Schnieder, do you have a  
19 position?

20 MS. SCHNEIDER: I similarly don't believe these articles  
21 offer evidence in support of the objections being heard, but --  
22 but I don't wish to take a position on their admissibility.

23 MR. MENDELSON: So -- so with respect to Mr. Frumkin's  
24 point about hearsay, Ms. -- Ms. Blado's comments aren't being  
25 offered for the truth of what they say. They're -- they're

1 being offered to show the -- the Labor Board's reaction to a  
2 letter which is referenced in this hearing and -- and the  
3 comments of the Labor Board as to how -- how that letter -- the  
4 issues it raises are to be addressed.

5 I -- I think it's important that these things be received,  
6 these documents be received, because there's a previous  
7 colloquy largely, though not exclusively, about the -- the  
8 pending requests of the Regional Director and the General  
9 Counsel, and the backdrop to those comments on the record in  
10 the colloquy is essentially -- are, at least, these comments by  
11 Ms. Blado and -- and possibly and Board comments by Mr.  
12 Frumkin. I can't -- I can't say authoritatively at this moment  
13 that I remember the colloquy and -- and his testimony well  
14 enough to say that what is here is necessarily embedded in --  
15 in those colloquies or that examination, but I -- I think these  
16 things are sufficiently important in terms of their backdrop to  
17 what's happened that the reader of the record would not  
18 necessarily understand the record, absent the inclusion of  
19 these proposed exhibits.

20 HEARING OFFICER ZWEIGHAFT: Okay. I -- I agree with Mr.  
21 Frumkin. I don't think that these are relevant. I don't think  
22 that they're going to be helpful to me in terms of making a  
23 decision about this election or another reader of the record.  
24 I think we can -- I can read the record without them, and I  
25 think the subsequent readers will be able to read the record

1 without them as well. So I -- I am rejecting those exhibits.  
2 If you'd like them in the rejected exhibit file, we can do  
3 that.

4 MR. MENDELSON: Yes, we would like that.

5 HEARING OFFICER ZWEIGHAFT: Okay. So exhibits -- Employer  
6 Exhibits 59 and 60 are rejected and will be placed in the  
7 rejected exhibit file.

8 **(Employer Exhibit Numbers 59 and 60 Rejected)**

9 HEARING OFFICER ZWEIGHAFT: All right. Any -- Ms. Carter,  
10 any other documentary issues for the Employer today?

11 MS. CARTER: No. That was all the document issues.

12 HEARING OFFICER ZWEIGHAFT: Okay. Thank you. And Ms.  
13 Carter, I know that you have a time commitment. If you need to  
14 go, I think we have Ms. -- Mr. Mendelson and Ms. Doud on Zoom.  
15 I can --

16 MS. CARTER: Thank you.

17 HEARING OFFICER ZWEIGHAFT: Thank you. Thank you for all  
18 your work on the documents.

19 Okay. So Mr. Mendelson, how is Employer proceeding at  
20 this point?

21 MR. MENDELSON: The Employer, as the -- I forget if it was  
22 on the record before or not, is awaiting responses from the  
23 Regional Director and from the General Counsel with respect to  
24 its requests respectively for testimony from the whistleblower,  
25 as well as testimony from Region 14 personnel, as well the

1 subpoena duces tecum for records from Region 14. And so  
2 pending disposition of those requests, I think -- I think the  
3 Employer is in a position where it's not prepared to rest, but  
4 it has to seek further adjournment.

5 I -- I think I did mention that we will be seeking to  
6 subpoena Mr. Vestigo. I think we don't need to make a request  
7 of you for a subpoena form. We -- we have at least one left  
8 over from what you previously gave us, but -- but the  
9 subpoenaing of Mr. Vestigo has not yet happened.

10 HEARING OFFICER ZWEIGHAFT: Okay. And are you -- do you  
11 plan to supplement your request to the General Counsel and  
12 Regional Director with some specific information about what's  
13 still needed in the record and what -- you know, what you are  
14 still seeking? I will tell you, I've looked at the offer of  
15 proof, and it doesn't seem to me that much of what's in the  
16 offer of proof is actually in the record in other -- through  
17 other testimony and documents, so --

18 MR. MENDELSON: We -- we will -- we will take a look at  
19 the offer of proof. My recollection is that while some of what  
20 was identified there is in the record, other parts of it are  
21 not. That would necessarily be the case, because those  
22 portions related to intra-agency communications, and I  
23 understand the Agency's position, although our -- our reading  
24 of General Counsel memorandum 118 -- forgive me. I don't have  
25 it right in front of me. We -- we've talked about this

1 before --

2 HEARING OFFICER ZWEIGHAFT: Yes.

3 MR. MENDELSON: -- is that there -- there is an exception  
4 that we believe is a fairly broad slot, so we will probably  
5 file with the Regional Director and the General Counsel and  
6 supplement to our last letter, which was on the 19th, last --  
7 last Friday, and in doing that, we will endeavor to identify  
8 those things that we believe remain absent from the record and  
9 therefore should be added to the record through one or both  
10 whistleblower and Region 14 documents and personnel.

11 HEARING OFFICER ZWEIGHAFT: Okay.

12 MR. MENDELSON: We'll -- we'll endeavor to do that by  
13 tomorrow. If not tomorrow, by Friday, but we'll do our best to  
14 get that out tomorrow.

15 HEARING OFFICER ZWEIGHAFT: Okay. And so -- of as you  
16 said, you're seeking an adjournment of the hearing to give you  
17 leave to make that request; is that accurate?

18 MR. MENDELSON: Yes.

19 HEARING OFFICER ZWEIGHAFT: Okay. Does the Union the  
20 Region wish to be heard on that?

21 MR. FRUMKIN: On the question of adjournment specifically?

22 HEARING OFFICER ZWEIGHAFT: Yeah.

23 MR. FRUMKIN: No, we do not.

24 HEARING OFFICER ZWEIGHAFT: Okay.

25 MS. SCHNEIDER: I do not either. Thank you.

1           HEARING OFFICER ZWEIGHAFT: All right. So I will grant  
2     the adjournment, and I think what we will do is -- I don't even  
3     know if it'll make sense to schedule a date today, because I  
4     don't know when we will get a ruling. So I think we'll have to  
5     be in touch in terms of scheduling later, and you know, I'll do  
6     my best to give everybody notice. I would ask that -- you  
7     know, since this is ongoing hearing, I think everybody's been  
8     cooperative about the scheduling. I'm going to ask that that  
9     continue.

10           Are there other items or anything else that anybody wants  
11     to put on the record before we adjourn?

12           MR. MENDELSON: No, not on the part of the Employer.

13           MR. FRUMKIN: Not from the Union, either.

14           MS. SCHNEIDER: Not for the Region. Thank you.

15           HEARING OFFICER ZWEIGHAFT: Okay. So hearing that, we  
16     will adjourn, and I will be in touch with the parties in terms  
17     of scheduling, once we have a decision.

18           MR. MENDELSON: Thank you.

19           HEARING OFFICER ZWEIGHAFT: All right. Off the record.

20     **(Whereupon, the hearing in the above-entitled matter was**  
21     **recessed at 3:29 p.m. until a date and time to be determined.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings, via Zoom videoconference, before the National Labor Relations Board (NLRB), Region 29, Case Number 14-RC-289926, Starbucks Corporation and Chicago & Midwest Regional Joint Board Workers United/SEIU, held at the National Labor Relations Board, Region 29, Two Metro Tech Center North, 5th Floor, Brooklyn, New York 11201, on August 24, 2022, at 11:00 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



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BARRINGTON MOXIE

Official Reporter